7–17–98
Vol. 63 No. 137
Pages 38461–38736

federal register

Friday
July 17, 1998

Now Available Online via

GPO Access

Free online access to the official editions of the *Federal Register, the Code of Federal Regulations* and other Federal Register publications is available on *GPO Access*, a service of the U.S. Government Printing Office at:

http://www.access.gpo.gov/nara/index.html

For additional information on ***GPO Access*** products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

Attention: Federal Agencies

Plain Language Tools Are Now Available

The Office of the Federal Register offers Plain Language Tools on its Website to help you comply with the President's Memorandum of June 1, 1998—Plain Language in Government Writing (63 FR 31883, June 10, 1998). Our address is: http://www.nara.gov/fedreg

For more in-depth guidance on the elements of plain language, read ''Writing User-Friendly Documents'' on the National Partnership for Reinventing Government (NPR) Website at: http://www.plainlanguage.gov

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 63 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 63, No. 137

Friday, July 17, 1998

Agricultural Marketing Service
NOTICES
Committees; establishment, renewal, termination, etc.:
Burley Tobacco Advisory Committee, 38553
Flue-Cured Tobacco Advisory Committee, 38553

Agriculture Department
See Agricultural Marketing Service
See Food and Nutrition Service
See Forest Service
See Rural Utilities Service
NOTICES
Privacy Act:
Systems of records, 38546–38553

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Consumer demand for food safety, 38654–38656

Coast Guard
RULES
Ports and waterways safety:
Southern Florida coastal waters; security zone, 38476–38478

Commerce Department
See Export Administration Bureau
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38556

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 38554–38556

Commodity Futures Trading Commission
PROPOSED RULES
Contract markets:
Contract market designation applications—
Economic and public interest requirements; guideline reorganization, 38537–38544
Rulemaking petitions:
Federal speculative position limits; increase, 38525–38537

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 38558

Defense Department
NOTICES
Civilian health and medical program of uniformed services (CHAMPUS):
TRICARE program—
Senior Prime managed care program; Medicare Trust Fund reimbursement, 38558–38619

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
Schedules I and II—
1998 proposed aggregate, 38671–38674
Applications, hearings, determinations, etc.:
Golden, Robert M., M.D., 38669–38670
Oremland, Fred D., M.D., 38670
Rose, David M., M.D., 38671

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38619–38620
Grants and cooperative agreements; availability, etc.:
National Institute on Disability and Rehabilitative Research—
Rehabilitation engineering research centers program, 38697–38698

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 38674–38676

Energy Department
See Energy Information Administration
See Energy Research Office
See Federal Energy Regulatory Commission

Energy Information Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38620–38625

Energy Research Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Financial assistance programs—
Outstanding Junior Investigator Program, 38625–38626

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Arizona Department of Environmental Quality; authority delegation, 38478–38481
Hazardous waste:
State underground storage tank program approvals—
Nevada, 38498–38501
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Fipronil, 38483–38495
Myclobutanil, 38481–38483
Pseudomonas fluorescens strain PRA-25, 38495–38498

PROPOSED RULES
Airl pollutants, hazardous national emission standards:
Arizona Department of Environmental Quality; authority delegation, 38544–38545
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38642–38643
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 38643
Weekly receipts, 38643–38644
Pesticide, food, and feed additive petitions:
BASF Corporation, 38644–38646
Reports and guidance documents; availability, etc.:
Shrimp virus peer review and risk assessment workshop, 38646–38647
Toxic and hazardous substances control:
Lead-based paint activities in target housing and child-occupied facilities; State authorization applications—
Mississippi, 38647–38649

Export Administration Bureau
NOTICES
Meetings:
Sensors and Instrumentation Technical Advisory Committee, 38556

Federal Aviation Administration
RULES
Airworthiness directives:
Dornier, 38463–38464
McDonnell Douglas, 38464–38466
Class D and Class E airspace, 38466–38467
Standard instrument approach procedures, 38467–38472
PROPOSED RULES
Airworthiness directives:
Boeing, 38524
Class E airspace, 38524–38525
NOTICES
Passenger facility charges; applications, etc.:
Colorado Springs Airport, CO, 38687–38688

Federal Communications Commission
NOTICES
Committees; establishment, renewal, termination, etc.:
Emergency Alert System National Advisory Committee, 38649
Common carrier services:
International traffic data reporting requirements, 38649–38651

Federal Deposit Insurance Corporation
PROPOSED RULES
Deposit insurance coverage:
Joint accounts and payable-on-death accounts, 38521–38524

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
California Independent System Operator Corp., et al., 38627–38631
Southern California Edison Co., et al., 38632–38634
Southern Company Energy Marketing, L.P., et al., 38634–38638
Tiverton Power Associates L.P., et al., 38638–38641
Environmental statements; availability, etc.:
Summit Hydropower Co., 38641–38642
Applications, hearings, determinations, etc.:
Northern Natural Gas Co.; technical conference, 38642
PowerSource Corp., 38626
Rocky Mountain Natural Gas & Electric L.L.C., 38626–38627
Texas Eastern Transmission Corp., 38627

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
Zaky Transportation Services, Inc., et al., 38652

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Northeast Illinois Railroad Corp., 38688

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 38652
Formations, acquisitions, and mergers, 38652–38653
Permissible nonbanking activities, 38653
Meetings; Sunshine Act, 38653

Federal Trade Commission
RULES
Organization, procedures, and practice rules:
Records access by foreign governments, 38472–38473

Fish and Wildlife Service
PROPOSED RULES
Migratory bird hunting:
Early-season regulations (1998-1999); proposed frameworks, 38699–38718
NOTICES
Endangered and threatened species permit applications, 38667

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
New drug applications—
Bacitracin methylene disalicylate, decoquinate, and roxarsone, 38474–38476
Bacitracin methylene disalicylate soluble powder, 38474
Ivermectin liquid, 38473–38474
NOTICES
Human drugs:
Patent extension; regulatory review period determinations—
QUADRAMET, 38656–38657
Meetings:
Nonprescription Drugs Advisory Committee; correction, 38657–38658
Nucleic acid testing for hepatitis C virus (HCV) and other viruses in blood donors; public workshop, 38658
Oncologic Drugs Advisory Committee, 38658–38659
Reports and guidance documents; availability, etc.:
National shellfish sanitation program guide for control of molluscan shellfish, 38659–38660

Food and Nutrition Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38554

Forest Service
NOTICES
Environmental statements; availability, etc.:
Challis National Forest, ID, 38554

General Services Administration
NOTICES
Federal travel:
Centralized household goods traffic management program (CHAMP); broker and direct move mangement services provider participation; provisions removed
Move management services continuation, 38653–38654

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 38665–38667

Interior Department
See Fish and Wildlife Service
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38694–38696

Justice Department
See Drug Enforcement Administration
NOTICES
Pollution control; consent judgments:
Findett Corp. et al., 38668
W.R. Grace & Co., 38668–38669

Labor Department
See Employment Standards Administration
See Labor Statistics Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38674

Labor Statistics Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38676–38677

Maritime Administration
NOTICES
Circular and operating letters to general agents; revocation, 38688–38689

National Aeronautics and Space Administration
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Lantis Laser, Inc., 38677

National Institutes of Health
NOTICES
Meetings:
National Institute of Dental Research, 38660–38661
National Institute of Diabetes and Digestive and Kidney Diseases, 38661
National Institute on Drug Abuse, 38661

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—Scallop, 38501–38502
NOTICES
National Weather Service; modernization and restructuring:
Weather Service offices—
Consolidation, automation, and closures, 38556–38557
Permits:
Marine mammals, 38557–38558

National Science Foundation
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38677
Meetings:
Design, Manufacture, and Industrial Innovation Special Emphasis Panel, 38677–38678
Geosciences Special Emphasis Panel, 38678
Polar Programs Special Emphasis Panel, 38678

National Transportation Safety Board
NOTICES
Aircraft accidents; hearings, etc.:
Marine accident, 38678–38679

Nuclear Regulatory Commission
PROPOSED RULES
Radiation protection standards:
Respiratory protection and controls to restrict internal exposures, 38511–38521
NOTICES
Meetings; Sunshine Act, 38679–38680
Applications, hearings, determinations, etc.:
Virginia Electric & Power Co. et al., 38679

Postal Service
RULES
International Mail Manual:
Global package link (GPL) service—
Germany and France, 38478

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Rural Utilities Service
RULES
Electric loans:
Borrower audit policy and certified public accountant peer review requirements, 38719–38735
PROPOSED RULES
Telecommunications system construction policies and procedures:
Telecommunications borrowers preloan and postloan requirements; reduction of RUS oversight with respect to preparation of plans and specifications, etc., 38503–38511

Securities and Exchange Commission
NOTICES
Applications, hearings, determinations, etc.:
CypressTree Asset Management Corp., Inc., et al., 38680–38681
Entergy Corp., 38682–38683
Morgan Stanley & Co. Inc., 38681–38682
WRL Series Fund, Inc., et al., 38683–38685

Small Business Administration
NOTICES
Disaster loan areas:
Iowa, 38685
Ohio, 38685–38686
Vermont, 38686
West Virginia, 38686

Substance Abuse and Mental Health Services Administration
NOTICES
Children with serious emotional disturbance; estimation methodology, 38661–38665

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 38668

Surface Transportation Board
NOTICES
Motor carriers:
Financial applications—
Global Passenger Services, L.L.C., et al., 38689–38691
Railroad operation, acquisition, construction, etc.:
Union Pacific Railroad Co., 38691
Railroad services abandonment:
Soo Line Railroad Co., 38691–38692

Thrift Supervision Office
RULES
Lending and investment:
Adjustable-rate mortgage loans; disclosure requirements, 38461–38463

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Railroad Administration
See Maritime Administration
See Surface Transportation Board
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38686–38687

Treasury Department
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 38692–38694

United States Information Agency
NOTICES
Art objects; importation for exhibition:
Impressionists in Winter: Effects de Neige, 38696

Separate Parts In This Issue

Part II
Department of Education, 38697–38698

Part III
Department of Interior, Fish and Wildlife Service, 38699–38718

Part IV
Department of Agriculture, Rural Utilities Service, 38719–38735

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1773 38719
Proposed Rules:
1753 38503

10 CFR
Proposed Rules:
20 38511

12 CFR
560 38461
Proposed Rules:
330 38521

14 CFR
39 (2 documents) 38463, 38464
71 38466
97 (3 documents) 38467, 38468, 38470
Proposed Rules:
39 38524
71 38524

16 CFR
4 38472

17 CFR
Proposed Rules:
1 38525
5 38537
17 38525
18 38525
150 38525

21 CFR
520 (2 documents) 38473, 38474
558 38474

33 CFR
165 38476

39 CFR
20 38478

40 CFR
63 38478
180 (3 documents) 38481, 38483, 38495
282 38498
Proposed Rules:
63 38544

50 CFR
679 38501
Proposed Rules:
20 38699

Rules and Regulations

Federal Register
Vol. 63, No. 137
Friday, July 17, 1998

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 560

[No. 98–70]

RIN 1550–AB12

Disclosures for Adjustable-Rate Mortgage Loans

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing a final rule revising adjustable-rate mortgage loan (ARM) disclosure requirements for savings associations. In the interim final rule, the OTS conformed its ARM disclosure rule text to recent changes to related disclosure provisions in Regulation Z, which was issued by the Federal Reserve Board (FRB) under the Truth in Lending Act (TILA). In today's final rule, the OTS replaces its existing rule with a simple cross-reference to the Regulation Z disclosure provisions. The rule also makes minor technical changes. This substitution does not affect the rule's function of promoting safe and sound lending by savings associations nor OTS's enforcement of its provisions.

EFFECTIVE DATE: Effective date: July 17, 1998. *Compliance date:* Compliance is optional until October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Susan Miles, Attorney, (202) 906–6798, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

To assist borrowers in making informed decisions on the cost of credit, the OTS and FRB have issued regulations imposing disclosure requirements on creditors issuing ARMs. The FRB disclosure rules at 12 CFR Part 226 implement TILA [1] and are commonly referred to as Regulation Z. Regulation Z applies to all lenders subject to TILA, including savings associations. Regulation Z, however, specifically states that information provided in accordance with the variable rate regulations of other federal agencies, such as the OTS, may be substituted for the disclosures required by Regulation Z.[2] To this extent, Regulation Z incorporates the OTS ARM disclosure rule at 12 CFR 560.210, and the OTS rule serves as an implementing regulation of TILA.

Section 560.210 applies to ARMs with a term of more than one year that are secured by property occupied by or to be occupied by the borrower. This rule was first issued by the OTS's predecessor agency, the Federal Home Loan Bank Board (FHLBB) under the agency's authority under the Home Owners' Loan Act (HOLA) [3] to ensure that savings associations operate in a safe and sound manner. The FHLBB believed the regulation was necessary because ''[s]afe and sound lending using ARMs requires that the borrower have a full understanding of the type of obligation being incurred in order to make a reasonable and meaningful decision concerning ability to repay.'' [4] The OTS continues to consider promoting safe and sound lending an important function of this regulation.

Although the original FHLBB regulation was more detailed than Regulation Z, the disclosures required under OTS regulations have been identical to those required under Regulation Z since 1988. Under Regulation Z, if a variable rate transaction exceeds a term of one year and is secured by the consumer's principal dwelling, the creditor must provide various initial disclosures for each variable rate program in which the consumer is interested.[5] Until recently amended, Regulation Z required an institution to provide: (1) A fifteen-year historical example, based on a $10,000 loan amount, illustrating how payments and the loan balance would have been affected by interest rate changes implemented according to the terms of the loan program; and (2) The maximum interest rate and payment for a $10,000 loan, originated at the most recent interest rate shown in the historical example assuming the maximum periodic increases in rates and payments under the loan, and the initial interest rate and payment for that loan.

Section 2105 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) [6] amended section 128(a) of TILA to permit a creditor to elect to provide a statement that periodic rates may substantially increase or decrease (together with the maximum interest rate and payment amount based on a $10,000 loan amount), in lieu of the historical example. On December 1, 1997, the FRB published a final rule implementing section 2105 of EGRPRA.

On January 8, 1998, the OTS published an interim final rule making identical amendments to § 560.210.[7] Under the OTS interim final rule, a savings association may provide either the historical example or the maximum interest rate and payment. If the savings association chooses the maximum interest rate and payment option, however, it must also provide the initial rate and payment amount and a statement that the periodic rate may increase or decrease substantially.

Consistent with the FRB final rule, the OTS interim rule also modified how the interest rate is calculated under the maximum interest rate and payment option. Before the interim final rule, a savings association calculated the maximum interest rate using ''the most recent interest rate shown in the historical example.'' Since a savings association is not required to provide the historical example when it elects the maximum interest rate and payment option, the interim final rule provided for the disclosure of ''the initial interest rate (index value plus margin, adjusted by the amount of any discount or premium) in effect as of an identified month and year for the particular loan program.''

Similarly, before the interim final rule, the OTS required a savings association to explain how a customer could calculate payments for the loan

[1] 15 U.S.C. 1601 *et seq.*
[2] 12 CFR 226.19(b) n. 45a and 226.20(c) n. 45c.
[3] 12 U.S.C. 1463(a) and 1464(a).
[4] 50 FR 32005 (Aug. 8, 1985).
[5] 12 CFR 226.19(b)(2) (1997).
[6] Pub. L. 104–208, 110 Stat. 3009 (September 30, 1996).
[7] 63 FR 1051.

amount based on the most recent payment shown in the historical example. To allow customers to understand the relationship between their transactions and the disclosures made under the maximum interest rate and payment option, the interim final rule permits a savings association to provide a customer with a similar explanation using the initial interest rate. The FRB made a similar change to Regulation Z.

II. Discussion of Comments

The OTS received comments from three commenters: one state-chartered savings institution, one federal savings bank, and one law firm. All three commenters supported the substantive changes in the interim final rule. Accordingly, today's final rule incorporates the substantive changes to the ARM disclosure requirements.

The OTS specifically solicited comment on whether it should delete the text of the disclosure requirements in § 560.210 and rely on the disclosure requirements in Regulation Z. All three commenters urged the OTS to adopt this approach.

The OTS has deleted the text of the disclosure requirements from the final rule and has substituted appropriate cross-references to Regulation Z. This approach will permit OTS-regulated institutions to immediately comply with all future changes to the Regulation Z disclosures in this area without waiting for the OTS to conform its rule through the rulemaking process.[8] Thus, the rule will ensure that all competing lenders are subject to similar regulatory requirements for ARM loans. This approach is consistent with section 303 of the Community Development Regulatory Improvement Act of 1994 (CDRIA), which instructs each banking agency to review their regulations and remove duplicate requirements and encourages common interagency supervisory policies. Finally, this change more closely conforms OTS rules to those issued by the Office of the Comptroller of the Currency and Federal Deposit Insurance Corporation. These agencies' rules do not prescribe any ARM disclosures and, instead, rely entirely on Regulation Z.

Rather than delete all references to ARM disclosure requirements from the regulations, the OTS has decided to retain appropriate cross-references to the disclosure provisions in Regulation Z. This approach, which two commenters supported, preserves the OTS's authority to utilize the full panoply of enforcement actions available under the HOLA and section 8 of the Federal Deposit Insurance Act (FDIA)[9] when an institution has improperly adjusted ARM interest rates. As noted above, § 560.210 implements both HOLA and TILA. Although TILA authorizes the OTS to utilize the standard enforcement remedies under section 8 of the FDIA, it limits when an agency may require an institution to ''make dollar adjustments'' for errors. Under TILA, the agency is authorized to direct an institution to make dollar adjustments only where an annual percentage rate or finance charge was inaccurately disclosed.[10]

By contrast, the OTS may seek any remedy authorized under the HOLA or section 8 of the FDIA for violations of regulations adopted pursuant to its authority under the HOLA.[11] As previously discussed, a long-standing purpose of the disclosure requirements of § 560.210 and its predecessor regulations has been promoting safe and sound lending by savings associations through ensuring that borrowers have a full understanding of their obligations and can therefore make reasonable and meaningful decisions about their ability to repay their loans. Thus, when enforcing § 560.210 as a safety and soundness regulation, the agency has a wider array of enforcement tools than would be available if it were solely enforcing violations of TILA. Section 8 of the FDIA, for example, permits the OTS to issue cease and desist orders requiring affirmative corrective actions, which may include account adjustments. FDIA also authorizes the OTS to require an institution to make restitution if the institution was unjustly enriched, or acted with reckless disregard.

Changing the format of the regulation to incorporate some provisions of Regulation Z by cross-referencing does not affect this authority. As with other OTS regulations that incorporate regulations of other agencies by cross referencing (e.g., 12 CFR 560.93, 563.43), OTS has the responsibility of enforcing the incorporated regulations as they apply to savings associations. The OTS will continue to enforce violations of § 560.210 using the enforcement remedies provided under the HOLA and FDIA.[12]

In the preamble to the interim rule, the OTS observed that § 560.210, on its face, applies to loans secured by a borrower's principal dwelling or by a second home. By contrast, the applicable Regulation Z disclosure requirements at 12 CFR 226.19(b) and 226.20(c) apply only when the secured property serves as the borrower's primary dwelling.[13] Two commenters urged the OTS to eliminate coverage for loans secured by second homes.

In recent years, the OTS has revised the scope of its ARM disclosure rule to more closely conform to Regulation Z requirements. For example, in the recent Lending and Investment rulemaking, OTS eliminated coverage of ARM loans that are primarily for a business, commercial, or agricultural purpose. The OTS made this revision to minimize the differences between its ARM regulation and Regulation Z and to ensure parity in coverage for all lenders.[14] To ensure that the scope of the OTS rule is, and continues to be, coextensive with Regulation Z, the cross-reference in the final rule refers to variable rate transactions as described under 12 CFR 226.19(b) and 226.20(c). These transactions are limited to those involving principal residences.

In addition to the changes discussed above, the OTS has made minor technical changes to current § 560.210. For example, the new cross-references to variable rate mortgage transactions under Regulation Z, permit the deletion of the existing definitions of ''adjustable-rate mortgage loan,'' ''applicant,'' and ''home.''

The OTS has also deleted current § 560.210(e). This paragraph states that a savings association making a closed- or open-end ARM loan must comply with Regulation Z (12 CFR 226.30) by specifying in their credit contracts the maximum interest rate that may be imposed during the term of the obligation. This section simply reiterates already applicable requirements under Regulation Z, and may be deleted as unnecessary.

[8] We note that the recent FRB final rule was effective on November 21, 1997. The OTS's related interim final rule was effective on January 8, 1998.

[9] 12 U.S.C. 1818.

[10] 15 U.S.C. 1607(b) & (e)(5).

[11] 12 U.S.C. 1464(d).

[12] One commenter noted that borrowers have additional enforcement remedies under state law and under RESPA's mortgage loan servicing provisions. *See* 12 U.S.C. 2605(e)(1)(B). The OTS does not wish to rely on the efforts of the individual plaintiffs to ensure that thrift institutions use safe and sound banking practices and comply with applicable laws and regulation. Rather, the OTS has retained and will exercise the broadest possible enforcement authority permitted under the existing statutes.

[13] *See e.g.*, 12 CFR Part 226, Supp. I. Official Staff Interpretation, Section 226.19, Paragraph 19(b), Comment 1.

[14] 61 FR 50951, 50962–63 (Sept. 30, 1996). Moreover, we note that the FHLBB's initial ARM disclosure regulation originally specifically excluded the coverage of second homes. 50 FR 32010 (August 8, 1985). In 1987, however, the relevant language was deleted without any discussion. 52 FR 3668 (February 5, 1987).

III. Effective Date

The OTS has determined that there is good cause to dispense with a 30-day delayed effective date under 5 U.S.C. 553(d)(3). The revised disclosure requirements reduce regulatory confusion by conforming the OTS disclosure rules under the HOLA more closely to those of the FRB under TILA. The changes do not have an adverse impact on savings associations because they reduce regulatory burden. Moreover, the substantive changes to disclosure requirements were immediately effective upon publication of the interim rule in January, 1998 and many institutions have already adopted the changes. Accordingly, OTS-regulated institutions will not require additional time to adjust their policies or practices to comply with the rule.

The OTS has also determined, for the reasons stated in the preceding paragraph, that good cause exists to adopt an effective date that is before date that would otherwise be required by section 302 of CDRIA (i.e., the first day of the calendar quarter after the date of publication).

Accordingly, the final rule is effective immediately. However, like the FRB rule, compliance with the OTS rule is optional until October 1, 1998.

IV. Paperwork Reduction Act of 1995

The collections of information contained in this final rule were submitted to and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB Control Number 1550–0078.

Comments on all aspects of this information collection above should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550–0078), Washington, DC 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collection of information in this final rule is displayed at 12 CFR 506.1(b).

The collection of information requirements in this final rule are found at 12 CFR 560.210. The OTS needs the disclosures requirements to ensure that savings associations comply with a statutory TILA requirement and to otherwise supervise safe and sound lending by savings associations. The likely respondents/recordkeepers are OTS-regulated savings associations.

V. Executive Order 12866

The Director of the OTS has determined that this final rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

VI. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose any additional burdens or requirements. Rather, it reduces the disclosures required for ARMs and eases the compliance burden on all savings associations, including small savings associations. Accordingly, a regulatory flexibility analysis is not required.

VII. Unfunded Mandates Act of 1995

The OTS has determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995, as codified at 2 U.S.C. 1571(a).

List of Subjects in 12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision amends title 12, chapter V, of the Code of Federal Regulations as set forth below:

PART 560—LENDING AND INVESTMENT

1. The authority citation for part 560 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j–3, 1828, 3803, 3806; 42 U.S.C. 4106.

2. Section 560.210 is revised to read as follows:

§ 560.210 Disclosures for variable rate transactions.

A savings association must provide the initial disclosures described at 12 CFR 226.19(b) and the adjustment notices described at 12 CFR 226.20(c) for variable rate transactions, as described in those regulations. The OTS administers and enforces those provisions for savings associations.

Dated: July 14, 1998.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 98–19143 Filed 7–16–98; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–133–AD; Amendment 39–10662; AD 98–15–11]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires replacing the existing roll spoiler control rods with improved parts. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent bending stress to the fork end of the roll spoiler, which could result in failure of the roll spoiler and consequent reduced controllability of the airplane.

DATES: Effective August 21, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 21, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD)

that is applicable to certain Dornier Model 328–100 series airplanes was published in the **Federal Register** on May 20, 1998 (63 FR 27690). That action proposed to require replacing the existing roll spoiler control rods with improved parts.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is estimated to be $9,000, or $180 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–15–11 Dornier Luftfahrt GMBH: Amendment 39–10662. Docket 98–NM–133–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3047 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent bending stress to the fork end of the roll spoiler, which could result in failure of the roll spoiler and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 4 months after the effective date of this AD, replace the existing roll spoiler control rods on the right and left sides of the airplane with improved parts, in accordance with Dornier Service Bulletin SB–328–27–247, Revision 1, dated February 19, 1998.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(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) The replacement shall be done in accordance with Dornier Service Bulletin SB–328–27–247, Revision 1, dated February 19, 1998. 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 Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directive 1998–042, dated January 29, 1998.

(e) This amendment becomes effective on August 21, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18773 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–209–AD; Amendment 39–10665; AD 98–15–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires a revision of the Airplane Flight Manual (AFM) to alert the flightcrew that both flight management computers (FMC's) must be installed and operational. That AD also requires an inspection to determine the serial number of the FMC's; and

follow-on corrective actions, if necessary, which terminate the AFM revision. That amendment was prompted by a report indicating that, due to incorrect multiplexers that were installed in the FMC's during production, certain data busses failed simultaneously during a ground test. This amendment removes the terminating action from the existing AD. The actions specified in this AD are intended to prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality due to installation of incorrect multiplexers, and consequent failure of the data busses.

DATES: Effective August 3, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 15, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–209–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information pertaining to this rulemaking action may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On April 28, 1998, the FAA issued AD 98–10–01, amendment 39–10512 (63 FR 24742, May 5, 1998), applicable to certain McDonnell Douglas Model MD–11 series airplanes. That AD requires a revision of the Airplane Flight Manual (AFM) to alert the flightcrew that both flight management computers (FMC's) must be installed and operational. That AD also requires an inspection to determine the serial number of the FMC's, and follow-on corrective actions, if necessary; which terminate the AFM revision. That action was prompted by a report indicating that, due to incorrect multiplexers that were installed in the FMC's during production, certain data busses failed simultaneously during a ground test. The actions required by that AD are intended to prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality due to installation of incorrect multiplexers, and consequent failure of the data busses.

Actions Since Issuance of Previous Rule

The existing AD requires terminating action for only a small subgroup of affected airplanes (those with FMC multiplexers having certain part numbers). However, since the issuance of that AD, additional defective multiplexers (not previously identified) have been found.

Airplanes having affected FMC's that have been purged of suspected defective multiplexers, in compliance with AD 98–10–01, would be considered airworthy. However, FMC's or mutliplexes may have been exchanged or replaced during routine maintenance subsequent to compliance with AD 98–10–01, and it would be impossible to determine whether units inspected in accordance with that AD may now contain suspected defective multiplexers. Therefore, the AFM revision will continue to be required until the entire fleet can be systematically inspected for suspected defective multiplexers. The AFM revision requirement will ensure the continued safe operation of the entire fleet during this interim period.

The AFM revision currently required by the existing AD, and retained in this new action, requires that both FMC's be installed and operational. The identified unsafe condition could not occur unless both FMC's fail. Therefore, the FAA finds that the AFM limitation adequately addresses the identified unsafe condition.

Interim Action

This is considered to be interim action. The FAA may consider further rulemaking to require inspection of all MD–11 FMC's to detect defective multiplexers. However, the compliance time under consideration for these actions is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 98–10–01 to continue to require an AFM revision to alert the flightcrew that both FMC's must be installed and operational. In addition, this AD removes the terminating action required by AD 98–10–01.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–209–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 that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 amendment 39–10512 (63 FR 24742, May 5, 1998), and by adding a new airworthiness directive (AD), amendment 39–10665, to read as follows:

98–15–14 McDonnell Douglas: Amendment 39–10665. Docket 98–NM–209–AD. Supersedes AD 98–10–01, amendment 39–10512.

Applicability: Model MD–11 series airplanes, manufacturer's fuselage numbers 0447 through 0552 inclusive, and 0554 through 0621 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airspeed and altitude indications on both primary flight displays in the cockpit, and/or loss or degradation of the autopilot functionality due to installation of incorrect multiplexers, and consequent failure of the data busses, accomplish the following:

(a) Within 5 days after May 20, 1998 (the effective date of AD 98–10–01, amendment 39–10512), revise Section 1, page 5–1, of the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM.

''Prior to dispatch of the airplane, both Flight Management Computer 1 (FMC–1) and FMC–2 must be installed and operational.''

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

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

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

(d) This amendment becomes effective on August 3, 1998.

Issued in Renton, Washington, on July 10, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19044 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–14]

Revision of Class D and Establishment of Class E Airspace; Yuma MCAS–Yuma International Airport, AZ; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which amends the Class D airspace area operating times and establishes a Class E airspace surface area at Yuma MCAS-Yuma International Airport, AZ; and corrects the Class E airspace legal description, as published in the direct final rule.

DATES: The direct final rule published in 63 FR 30125 is effective on 0901 UTC, August 13, 1998. This correction is effective on August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Branch, AWP–520.10, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (310) 725–6613.

SUPPLEMENTARY INFORMATION: On June 3, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments which amended the operating times of the Class D airspace area and established a Class E airspace surface area at Yuma MCAS-Yuma International Airport, Yuma, AZ. (FR Document 98–14757, 63 FR 30125, Airspace Docket No. 98–AWP–14). An error was subsequently discovered in the legal description of the Class E airspace surface area. The Class E surface area description specifies an altitude stratum from the surface up to and including 2,700 feet MSL. Defined altitudes are not a required or appropriate definition for Class E airspace surface areas in accordance with FAA Order 7400.2D, Procedures for Handling Airspace Matters and FAA Order 7400.9E, Airspace Designations and Reporting Points. After careful review of all available information related to the subject present above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the error and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a noncontroversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 13, 1998. No adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

Correction

In rule FR Doc. 98–14757 published in the **Federal Register** on June 3, 1998, 63 FR 30125, make the following correction to the Yuma MCAS-Yuma International Airport, Yuma, AZ, Class E airspace designation incorporated by reference in 14 CFR 71.1:

§ 71.1 [Corrected]

AWP AZ E2 Yuma MCAS-Yuma International Airport, AZ [Corrected]

On page 30126, in the third column, under Yuma MCAS-Yuma International Airport, AZ correct ''That airspace extending upward from the surface to and including 2,700 feet MSL within a 5.2-mile radius of Yuma MCAS/Yuma International Airport'' to read ''That airspace within a 5.2-mile radius of Yuma MCAS/Yuma International Airport.''

Issued in Los Angeles, California on July 7, 1998.

Sherry Avery,

Acting Assistant Manager, Air Traffic Division, Western Pacific Region.

[FR Doc. 98–19097 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29280; Amdt. No. 1878]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

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

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

The Rule

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

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

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on July 10, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

Effective 13 August, 1998

Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, ILS/DME RWY 16, Orig
Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, ILS/DME RWY 34, Orig
Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, GPS RWY 16, Amdt 1
Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, RWY 34, Amdt 1
Delano, CA, Delano Muni, VOR RWY 32, Amdt 7
Delano, CA, Delano Muni, GPS RWY 32, Orig
Porterville, CA, Porterville Muni, GPS RWY 12, Orig
Porterville, CA, Porterville Muni, GPS RWY 30, Orig
Anderson, IN, Anderson Muni-Darlington Field, ILS RWY 30, Orig
Stevensville, MT, Stevensville, GPS–A, Orig

Effective 10 September, 1998

Le Mars, IA, Le Mars Muni, VOR/DME OR GPS RWY 36, Amdt 2
Le Mars, IA, Le Mars Muni, NDB RWY 18, Amdt 10
Le Mars, IA, Le Mars Muni, GPS RWY 18, Orig

Effective 8 October, 1998

St. Elmo, AL, St Elmo, GPS RWY 6, Orig
Moultrie, GA, Moultrie Muni, GPS RWY 22, Amdt 12
Moultrie, GA, Moultrie Muni, VOR RWY 4, Orig
Moultrie, GA, Moultrie Muni, GPS RWY 22, Orig
Fitchburg, MA, Fitchburg Muni, GPS RWY 14, Orig
Fitchburg, MA, Fitchburg Muni, GPS RWY 20, Orig
Fitchburg, MA, Fitchburg Muni, GPS RWY 32, Orig
Moorhead, MN, Moorhead Muni, GPS RWY 30, Orig
Berlin, NJ, Camden County, GPS RWY 5, Orig
Berlin, NJ, Camden County, GPS RWY 23, Orig
Angola, NY, Angola, VOR/DME–A, Amdt 1
Angola, NY, Angola, GPS RWY 1, Orig
Angola, NY, Angola, GPS RWY 19, Orig
Leesburg, VA Leesburg Muni/Godfrey Field, GPS RWY 17, Amdt 1
Moses Lake, WA, Grant County Intl, GPS RWY 4, Orig
Moses Lake, WA, Grant County Intl, GPS RWY 14L, Orig
Moses Lake, WA, Grant County Intl, GPS RWY 22, Orig
Moses Lake, WA, Grant County Intl, GPS RWY 32R, Orig
Summersville, WV, Summersville, GPS RWY 4, Amdt 1
Summersville, WV, Summersville, GPS RWY 22, Amdt 1

[FR Doc. 98–19101 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29281; Amdt. No. 1879]

[RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (*Mail Address:* P.O. Box 25082, Oklahoma City, OK 73125) *Telephone:* (405) 954–4164.

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

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

publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on July 10, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
06/24/98	KY	Louisville	Louisville Intl-Standiford Field	FDC 8/4237	ILS RWY 35L, ORIG...
06/24/98	OH	Youngstown-Warren	Youngstown-Warren Regional	FDC 8/4224	ILS RWY 14, AMDT 6...
06/25/98	KY	Frankfort	Frankfort/Capital City	FDC 8/4270	GPS RWY 24, ORIG...
06/25/98	KY	Frankfort	Frankfort/Capital City	FDC 8/4273	LOC/DME RWY 24, ORIG–A...
06/25/98	KY	Mount Sterling	Mount Sterling-Montgomery County	FDC 8/4269	NDB or GPS RWY 3, AMDT 1...
06/25/98	KY	Mount Sterling	Mount Sterling-Montgomery County	FDC 8/4271	NDB RWY 21, AMDT 1...
06/25/98	KY	Mount Sterling	Mount Sterling-Montgomery County	FDC 8/4272	GPS RWY 21, ORIG...
06/25/98	OH	Carrollton	Carrollton County-Tolson	FDC 8/4290	GPS RWY 7, ORIG...
06/26/98	WI	Manitowish Waters	Manitowish Waters	FDC 8/4313	GPS RWY 32, ORIG–A...
06/26/98	WI	Shell Lake	Shell Lake Muni	FDC 8/4316	NDB RWY 32, ORIG–A...
06/29/98	IA	Sibley	Sibley Muni	FDC 8/4383	NDB or GPS RWY 35, AMDT 1...
06/29/98	IA	Sibley	Sibley Muni	FDC 8/4384	NDB or GPS RWY 17, AMDT 1...
06/30/98	OH	Cambridge	Cambridge Muni	FDC 8/4425	LOC/DME RWY 22, ORIG...
06/30/98	OH	Cambridge	Cambridge Muni	FDC 8/4426	VOR or GPS–A, AMDT 3...
06/30/98	OH	Mount County	Knox County	FDC 8/4422	VOR/DME RNAV or GPS RWY 28, AMDT 2...
06/30/98	OH	Mount Vernon	Knox County	FDC 8/4423	VOR or GPS–A, AMDT 7...
06/30/98	OH	Mount Vernon	Knox County	FDC 8/4424	VOR/DME RNAV or GPS RWY 10, AMDT 2...
06/30/98	WI	Manitowish Waters	Manitowish Waters	FDC 8/4404	NDB RWY 32, ORIG...
07/01/98	NY	Saranac Lake	Adirondack Regional	FDC 8/4455	ILS RWY 23 AMDT 7...
07/01/98	NY	Saranac Lake	Adirondack Regional	FDC 8/4465	VOR/DME or GPS RWY 5 AMDT 2...
07/01/98	NY	Saranac Lake	Adirondack Regional	FDC 8/4467	VOR or GPS RWY 9 ORIG...
07/06/98	IA	Atlantic	Atlantic Muni	FDC 8/4630	NDB RWY 12, AMDT 9...
07/06/98	IA	Chariton	Chariton Muni	FDC 8/4627	NDB RWY 17, AMDT 3...

FDC date	State	City	Airport	FDC No.	SIAP
07/06/98	IA	Chariton	Chariton Muni	FDC 8/4628	GPS RWY 10, ORIG...
07/06/98	IA	Chariton	Chariton Muni	FDC 8/4629	VOR or GPS RWY 17, AMDT 1...
07/06/98	MA	Boston	General Edward Lawrence Logan Intl	FDC 8/4621	VOR/DME or GPS RWY 15R AMDT 1...
07/06/98	NY	Plattsburgh	Clinton County	FDC 8/4610	VOR or GPS RWY 19 AMDT 3...
07/06/98	NY	Plattsburgh	Clinton County	FDC 8/4612	VOR/DME or GPS–A AMDT 2...
07/06/98	NY	Plattsburgh	Clinton County	FDC 8/4615	ILSRWY 1 AMDT 4...
07/06/98	RI	Newport	Newport State	FDC 8/4623	VOR/DME or GPS RWY 16 ORIG...
07/06/98	RI	Newport	Newport State	FDC 8/4624	LOC RWY 22 AMDT 7...
07/07/98	IA	Newport	Newton Muni	FDC 8/4663	ILS RWY 32, AMDT 1B...
07/07/98	MN	Cook	Cook Muni	FDC 8/4641	NDB or GPS RWY 31, AMDT 1...
07/07/98	MN	Park Rapids	Park Rapids Muni	FDC 8/4652	NDB or GPS RWY 31, AMDT 1...
07/07/98	MN	Park Rapids	Park Rapids Muni	FDC 8/4653	VOR/DME RWY 13, AMDT 8...
07/07/98	MN	Park Rapids	Park Rapids Muni	FDC 8/4654	ILS RWY 31 AMDT 1...
07/07/98	MN	Park Rapids	Park Rapids Muni	FDC 8/4658	VOR RWY 31, AMDT 13...
07/07/98	MN	St. Cloud	St. Cloud Regional	FDC 8/4642	GPS RWY 23, ORIG...
07/07/98	MN	St. Cloud	St. Cloud Regional	FDC 8/4643	GPS RWY 5, ORIG...
07/07/98	NE	Grant Island	Central Nebraska Regional	FDC 8/4659	ILS RWY 35, AMDT 9...
07/07/98	NE	Omaha	Millard	FDC 8/4680	VOR/DME RNAV RWY 12, AMDT 6...
07/07/98	NE	Omaha	Millard	FDC 8/4681	NDB RWY 12, AMDT 10...
07/07/98	NE	Omaha	Millard	FDC 8/4682	GSP RWY 13, ORIG...

[FR Doc. 98–19100 Filed 7–16–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29282; Amdt. No. 1880]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) *Telephone:* (405) 954–4164.

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

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

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the

United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

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

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

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

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on July 10, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective August 13, 1998

Selma, AL, Selma/Craig Field, VOR RWY 15, Orig
CANCELLED
Selma, AL, Selma/Craig Field, VOR or GPS RWY 15, Orig
Selawik, AK, Selawik, VOR RWY 3, Orig
CANCELLED
Selawik, AK, Selawik, VOR or GPS RWY 3, Orig
Selawik, AK, Selawik, VOR RWY 21, Orig
CANCELLED
Selawik, AK, Selawik, VOR or GPS RWY 21, Orig
Benton, AR, Benton/Saline County, VOR or GPS–A, Amdt 6
CANCELLED
Benton, AR, Benton/Saline County, VOR–A, Amdt 6
Bentonville, AR, Bentonville Muni/Louise M. Thaden Field, VOR/DME or GPS–B, Amdt 4
CANCELLED
Bentonville, AR, Bentonville Muni/Louise M. Thaden Field, VOR/DME–B, Amdt 4
Bentonville, AR, Bentonville Muni/Louise M. Thaden Field, VOR, or GPS–A, Amdt 11
CANCELLED
Bentonville, AR, Bentonville Muni/Louise M. Thaden Field, VOR–A, Amdt 11
Clarksville, AR, Clarksville Muni, NDB or GPS–A, Amdt 5
CANCELLED
Clarksville, AR, Clarksville Muni, NDB–A, Amdt 5
Corning, AR, Corning Muni, VOR/DME or GPS–A, Amdt 1B
CANCELLED
Corning, AR, Corning Muni, VOR/DME–A, Amdt 1B
Lake Village, AR, Lake Village Muni, VOR/DME or GPS–B, Amdt 5
CANCELLED
Lake Village, AR, Lake Village Muni, VOR/DME–B, Amdt 5
Lake Village, AR, Lake Village Muni, VOR or GPS–A, Amdt 7
CANCELLED
Lake Village, AR, Lake Village Muni, VOR–A, Amdt 7
Mountain Home, AR, Mountain Home/Baxter County Regional, VOR or GPS–A, Amdt 9A
CANCELLED
Mountain Home, AR, Mountain Home/Baxter County Regional, VOR–A, Amdt 9A
Stuttgart, AR, Stuttgart Muni, VOR/DME or GPS–A, Amdt 1
CANCELLED
Stuttgart, AR, Stuttgart Muni, VOR/DME–A, Amdt 1
West Memphis, AR, West Memphis Muni, VOR/DME–A, Amdt 6
CANCELLED
West Memphis, AR, West Memphis Muni, VOR/DME–A, Amdt 6
West Memphis, AR, West Memphis Muni, NDB or GPS–B, Amdt 3
CANCELLED
West Memphis, AR, West Memphis Muni, NDB–B, Amdt 3
Grand Canyon, AZ, Grand Canyon/Valle, VOR RWY 3, Orig
CANCELLED
Grand Canyon, AZ, Grand Canyon/Valle, VOR or GPS RWY 3, Orig
Santa Ana, CA, Santa Ana/John Wayne Airport-Orange County, NDB RWY 19R, Amdt 1
CANCELLED
Santa Ana, CA, Santa Ana/John Wayne Airport-Orange County, NDB RWY 19R, Amdt 1
Punta Gorda, FL, Punta Gorda/Charlotte County, VOR/DME RNAV, RWY 27, Orig
CANCELLED
Punta Gorda, FL, Punta Gorda/Charlotte County, VOR/DME RNAV or GPS RWY 27, Orig
Jasper, GA, Jasper/Pickens County, NDB or GPS RWY 34, Amdt 1
CANCELLED
Jasper, GA, Jasper/Pickens County, NDB or GPS RWY 34, Amdt 1
Hampton, IA, Hampton Muni, NDB RWY 17, Amdt 4
CANCELLED
Hampton, IA, Hampton Muni, NDB RWY 17, Amdt 4
Shenandoah, IA, Shenandoah Muni, NDB RWY 4, Orig
CANCELLED
Shenandoah, IA, Shenandoah Muni, NDB or GPS RWY 4, Orig
Hugoton, KS, Hugoton Muni, NDB RWY 2, Amdt 2
CANCELLED
Hugoton, KS, Hugoton Muni, NDB or GPS RWY 2, Amdt 2
Iola, KS, Iola/Allen County, NDB RWY 1, Amdt 1
CANCELLED
Iola, KS, Iola/Allen County, NDB or GPS RWY 1, Amdt 1
Liberal, KS, Liberal Muni, VOR/DME RWY 17, Amdt 2
CANCELLED
Liberal, KS, Liberal Muni, VOR/DME RWY 17, Amdt 2
Scott City, KS, Scott City Muni, NDB or GPS RWY 35, Amdt 1

CANCELLED
Scott City, KS, Scott City Muni, NDB or GPS RWY 35, Amdt 1
Eunice, LA, Eunice, NDB RWY 16, Orig
CANCELLED
Eunice, LA, Eunice, NDB or GPS RWY 16, Orig
Tallullah/Vicksburg, LA, Tallulah/Vicksburg Tallulah Regional, NDB RWY 36, Orig–B
CANCELLED
Tallulah/Vicksburg, LA, Tallulah/Vicksburg Tallulah Regional, NDB or GPS RWY 36, Orig–B
CANCELLED
Appleton, MN, Appleton Muni, NDB RWY 13, Orig-A
CANCELLED
Appleton, MN, Appleton Muni, NDB or GPS RWY 13, Orig-A
Brainerd, MN, Brainerd-Crow Wing County Regional, VOR/DME RWY 12, Amdt 9
CANCELLED
Brainerd, MN, Brainerd-Crow Wing County Regional, VOR/DME or GPS RWY 12, Amdt 9
Park Rapids, MN, Park Rapids Muni, VOR/DME RWY 13, Amdt 13
CANCELLED
Park Rapids, MN, Park Rapids Muni, VOR/DME or GPS RWY 13, Amdt 13
Rochester, MN, Rochester Intl, VOR/DME RWY 20, Amdt 13
CANCELLED
Rochester, MN, Rochester Intl, VOR/DME or GPS RWY 20, Amdt 13
Macon, MO, Macon-Fower Memorial, VOR/DME RWY 20, Orig-A
CANCELLED
Macon, MO, Macon-Fower Memorial, VOR/DME or GPS RWY 20, Orig-A
Monett, MO, Monett Muni, VOR/DME RNAV RWY 18, Orig
CANCELLED
Monett, MO, Monett Muni, VOR/DME RNAV or GPS RWY 18, Orig Rolla, MO, Rolla Downtown, VOR/DME–A, Amdt 2A
CANCELLED
Rolla, MO, Rolla Downtown, VOR/DME or GPS–A, Amdt 2A
Bowman, ND, Bowman Muni, NDB RWY 29, Amdt 2A
CANCELLED
Bowman, ND, Bowman Muni, NDB or GPS RWY 29, Amdt 2A
Fairmont, NE, Fairmont State Airfield, NDB RWY 17, Orig
CANCELLED
Fairmont, NE, Fairmont State Airfield, NDB or GPS RWY 17, Orig
Millville, NJ, Millville Muni, VOR/DME RNAV RWY 28, Amdt 1
CANCELLED
Millville, NJ, Millville Muni, VOR/DME RNAV or GPS RWY 28, Amdt 1
Millville, NJ, Millville Muni, VOR–A, Orig
CANCELLED
Millville, NJ, Millville Muni, VOR or GPS–A, Orig
Charlotte, NC, Charlotte/Douglas Intl, VOR/DME RWY 18R, Amdt 6
CANCELLED
Charlotte, NC, Charlotte/Douglas Intl, VOR/DME or GPS RWY 18R, Amdt 6
Wadsworth, OH, Wadsworth Muni, VOR/DME–A, Amdt 1A
CANCELLED
Wadsworth, OH, Wadsworth Muni, VOR/DME or GPS–A, Amdt 1A
Wapokoneta, OH, Wapokoneta/Neil Armstrong, VOR/DME RNAV RWY 26, Amdt 5B
CANCELLED
Wapokoneta, OH, Wapokoneta/Neil Armstrong, VOR/DME RNAV or GPS RWY 26, Amdt 5B
Ada, OK, Ada Muni, VOR/DME–A, Orig-A
CANCELLED
Ada, OK, Ada Muni, VOR/DME or GPS–A, Orig-A
Newport, OR, Newport Muni, VOR/DME RWY 34, Orig
CANCELLED
Newport, OR, Newport Muni, VOR/DME or GPS RWY 34, Orig
Redmond, OR, Redmond/Roberts Field, NDB RWY 22, Amdt 1
CANCELLED
Redmond, OR, Redmond/Roberts Field, NDB or GPS RWY 22, Amdt 1
Clarion, PA, Clarion County, VOR/DME RNAV RWY 6, Orig-A
CANCELLED
Clarion, PA, Clarion County, VOR/DME RNAV or GPS RWY 6, Orig-A
Clarion, PA, Clarion County, VOR/DME RNAV RWY 24, Orig
CANCELLED
Clarion, PA, Clarion County, VOR/DME RNAV or GPS RWY 24, Orig
Easton, PA, Easton, VOR–C, Amdt 2
CANCELLED
Easton, PA, Easton, VOR or GPS–C, Amdt 2
Latrobe, PA, Latrobe/Westmoreland County, VOR/DME RNAV RWY 5, Amdt 1
CANCELLED
Latrobe, PA, Latrobe/Westmoreland County, VOR/DME RNAV or GPS RWY 5, Amdt 1
Philadelphia, PA, Philadelphia/Wings Field, NDB RWY 6, Amdt 8
CANCELLED
Philadelphia, PA, Philadelphia/Wings Field, NDB or GPS RWY 6, Amdt 8
Pittsburgh, PA, Pittsburgh Intl, VOR RWY 28L/C, Amdt 5
CANCELLED
Pittsburg, PA, Pittsburgh Intl, VOR or GPS RWY 28L/C, Amdt 5
Myrtle Beach, SC, Myrtle Beach Intl, VOR/DME–A, Orig-A
CANCELLED
Myrtle Beach, SC, Myrtle Beach Intl, VOR/DME or GPS–A, Orig-A
Mitchell, SD, Mitchell Muni, VOR RWY 30, Amdt 4
CANCELLED
Mitchell, SD, Mitchell Muni, VOR or GPS RWY 30, Amdt 4
Harlingen, TX, Harlingen/Valley Intl, NDB RWY 17L, Amdt 5
CANCELLED
Harlingen, TX, Harlingen/Valley Intl, NDB or GPS RWY 17L, Amdt 5
Houston, TX, Houston/Sugar Land Muni/Hull Field, NDB RWY 17, Amdt 8
CANCELLED
Houston, TX, Houston/Sugar Land Muni/Hull Field, NDB or GPS RWY 17, Amdt 8
Norfolk, VA, Norfolk Intl, NDB/DME RWY 23, Orig
CANCELLED
Norfolk, VA, Norfolk Intl, NDB/DME or GPS RWY 23, Orig
Orange, VA, Orange County, VOR/DME–A, Amdt 2
CANCELLED
Orange, VA, Orange County, VOR/DME or GPS–A, Amdt 2
Washington, DC, Washington National, NDB RWY 36, Amdt 9
CANCELLED
Washington, DC, Washington National, NDB or GPS RWY 36, Amdt 9
Washington, DC, Washington National, VOR/DME RNAV–A, Amdt 6
CANCELLED
Washington, DC, Washington National, VOR/DME RNAV or GPS–A, Amdt 6
Oshkosh, WI, Oshkosh/Wittman Regional, VOR RWY 9, Amdt 8B
CANCELLED
Oshkosh, WI, Oshkosh/Wittman Regional, VOR or GPS RWY 9, Amdt 8B

[FR Doc. 98–19099 Filed 7–16–98; 8:45 am]
BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 4

Access to Records by Foreign Governments

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission is amending Rules 4.10(d) and (e) of its Rules of Practice, which describe confidentiality protections for materials that the agency obtains pursuant to process in a law enforcement investigation, materials that the agency obtains voluntarily in lieu of such process that are designated confidential by their submitters, and other materials designated as confidential. These amendments conform the agency's rules to its disclosure authority under the International Antitrust Enforcement Assistance Act.

DATES: The amendments are effective July 17, 1998.

FOR FURTHER INFORMATION CONTACT: Marc Winerman, Office of the General Counsel, (202) 326–2451.

SUPPLEMENTARY INFORMATION: The Commission is amending Rule 4.10(d) of its Rules of Practice, 16 C.F.R. 4.10(d), which applies to materials submitted pursuant to compulsory process in a law enforcement investigation and to materials designated confidential and submitted voluntarily in lieu of such process. That rule provides that covered materials shall not be made available, except as provided therein, to anyone other than Commission officers, employees, contractors or consultants.

The Commission is also amending Rule 4.10(e) of its Rules, 16 C.F.R. 4.10(e), which provides that other materials that are designated confidential by their submitters may not be disclosed, except as provided therein, unless the Commission: (1) determines that they are neither trade secrets nor confidential commercial information; and (2) provides ten days' pre-disclosure notice to the submitter. These provisions implement and expand upon protections in sections 6(f) and 21 of the FTC Act, 15 U.S.C. 46(f), 57b–2. The amendments adopted herein conform the Commission's rules to its authority and obligations under agreements entered pursuant to the International Antitrust Enforcement Assistance Act (''IAEAA''), 15 U.S.C 6201 *et. seq.*

The IAEAA authorizes the Commission and the Department of Justice (''the agencies'') to enter into mutual assistance agreements with foreign antitrust authorities for the purpose of providing reciprocal assistance in antitrust investigations. In accordance with the IAEAA's terms, 15 U.S.C. 6206, the agencies have published for comment the first proposed IAEAA agreement.[1]

Pursuant to requests under IAEAA agreements, the agencies may collect information on behalf of foreign antitrust authorities. 15 U.S.C. 6202. The agencies may also share information with those authorities, including both information collected at their behest and certain information already in the agencies' files. As reflected in these amendments, the IAEAA expressly authorizes disclosures of materials notwithstanding sections 6(f) and 21 of the FTC Act. 15 U.S.C. 6205.

The amendments adopted herein will reconcile the Commission's rules with the agency's obligations to provide assistance under IAEAA agreements. Because failure to make these amendments could impair the Commission's ability to meet its obligations, the amendments are exempt from notice and comment under the Administrative Procedure Act by virtue of the foreign affairs exemption to the Act. 5 U.S.C. 553(a)(1). They are also exempt from the notice and comment requirements of the APA and the Commission's rules by virtue of the good cause exemptions in 5 U.S.C. 553(b)(3) and 16 CFR 1.26(b), respectively. Except for non-substantive stylistic changes, the amendments merely implement agreements that are themselves subject to public comment, and comment on the amendments is therefore unnecessary.[2]

This action does not entail a collection of information for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* It is not subject to the requirements of the Regulatory Flexibility Act because it concerns a foreign affairs function of the United States. *See* 5 U.S.C. 601(2), Section 1(a)(2) of E.O. 12291, 46 FR 13193 (1981).

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Freedom of Information Act, Privacy Act, Sunshine Act.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, Chapter 1, Subchapter A of the Code of Federal Regulations, as follows:

PART 4—MISCELLANEOUS RULES

1. The authority citation for Part 4 continues to read as follows:

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46.

2. Amend § 4.10 by revising paragraphs (d) and (e) to read as follows:

§ 4.10 Nonpublic material.

* * * * *

(d) Except as provided in paragraphs (f) or (g) of this section, in § 4.11(b), (c), or (d), or as contemplated by agreements under the International Antitrust Enforcement Assistance Act (15 U.S.C. 6201 *et seq.*), no material that is marked or otherwise identified as confidential and that is within the scope of § 4.10(a)(8), and no material within the scope of § 4.10(a)(9) that is not otherwise public, will be made available, without the consent of the person who produced the material, to any individual other than a duly authorized officer or employee of the Commission or a consultant or contractor retained by the Commission who has agreed in writing not to disclose the information. All other Commission records may be made available to a requester under the procedures set forth in § 4.11 or may be disclosed by the Commission except where prohibited by law.

(e) Except as provided in paragraphs (f) or (g) of this section, in § 4.11(b), (c), or (d), or as contemplated by agreements under the International Antitrust Enforcement Assistance Act (15 U.S.C. 6201 *et seq.*), material not within the scope of § 4.10(a)(8) or § 4.10(a)(9) that is received by the Commission and is marked or otherwise identified as confidential may be disclosed only if it is determined that the material is not within the scope of § 4.10(a)(2), and the submitter is provided at least ten days' notice of the intent to disclose the material.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–19213 Filed 7–16–98; 8:45 am]

BILLING CODE 6750–01–P

[1] ''Request for Comments on Proposed Agreement Between the Government of the United States of America and the Government of Australia on Mutual Antitrust Enforcement Assistance,'' 62 FR 20022 (Apr. 24, 1997) (comment period closed June 9, 1997).

[2] See *International Brotherhood of Teamsters* v. *Peña*, 17 F.3d 1478, 1486 (D.C. Cir. 1994) (APA foreign affairs exemption and good cause exception of agency rule); *WBEN* v. *United States*, 396 F.2d 601, 616 (2d Cir. 1968) (APA foreign affairs exemption).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Ivermectin Liquid

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 Phoenix Scientific, Inc. The ANADA provides for veterinary prescription use of ivermectin oral liquid in horses to treat and control parasites and parasitic conditions.

EFFECTIVE DATE: July 17, 1998.

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: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, filed ANADA 200–202 that provides for veterinary prescription use of Phoenectin™ Liquid (10 milligram per milliliter (mg/mL) ivermectin oral liquid) for horses for the treatment and control of infections of large strongyles (adult) (*Strongylus equinus*), (adult and arterial larval stages) (*S. vulgaris*), (adult and migrating tissue stages) (*S. endentatus*), (adult) (*Triodontophorus* spp.); small strongyles, including those resistant to some benzimidizole class compounds (adults and fourth-stage larvae) (*Cyathostomum* spp.,

Cylicocyclus spp., *Cylicodontophorus* spp., (*Cylicostephanus* spp.), pinworms (adult and fourth-stage larvae) (*Oxyuris equi*); ascarids (third- and fourth-stage larvae and adults) (*Parascaris equorum*); hairworms (adult) (*Trichostrongylus axei*); large-mouth stomach worms (adult) (*Habronema muscae*); stomach bots (oral and gastric stages) (*Gastrophilus* spp.); lungworms (adults and forth-stage larvae) (*Dictyocaulus arnfieldi*); intestinal threadworms (adults) (*Strongyloides westeri*); summer sores caused by *Habronema* and *Draschia* spp. cutaneous third-stage larvae; and dermatitis caused by neck threadworm microfilariae (*Onchocerca* spp.).

Approval of ANADA 200–202 for Phoenix Scientific, Inc.'s, ivermectin oral liquid is as a generic copy of Merial Ltd.'s, NADA 140–439 Eqvalan ® (ivermectin) liquid for horses. The ANADA is approved as of June 5, 1998, and the regulations are amended in 21 CFR 520.1195(b) 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, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, 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 520

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 520 is 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.

§ 520.1195 [Amended]

2. Section 520.1195 *Ivermectin liquid* is amended in paragraph (b) by removing ''No. 050604'' and adding in its place ''Nos. 050604 and 059130''.

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19028 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Bacitracin Methylene Disalicylate Soluble

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 supplemental new animal drug application (NADA) filed by Alpharma Inc. The supplemental NADA provides for using soluble bacitracin methylene disalicylate (BMD) powder to make a medicated drinking water for growing quail for prevention of ulcerative enteritis.

EFFECTIVE DATE: July 17, 1998.

FOR FURTHER INFORMATION CONTACT: William T. Flynn, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1644.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed supplemental NADA 65–470 that provides for use of BMD® Soluble (BMD soluble powder) to make a medicated drinking water for growing quail containing the equivalent of 400 milligrams of bacitracin per gallon used for prevention of ulcerative enteritis due to *Clostridium colinum* susceptible to BMD. The supplemental NADA is approved as of May 27, 1998, and the regulations in 21 CFR 520.154a are amended 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, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(d)(4) 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 520

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 520 is 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.

2. Section 520.154a is amended in paragraph (a) by removing the phrase ''paragraph (d)(3)'' and by adding in its place the phrase ''paragraphs (d)(3) and (d)(4)'' and by adding paragraph (d)(4) to read as follows:

§ 520.154a Soluble bacitracin methylene disalicylate.

* * * * *

(d) * * *

(4) *Growing quail*—(i) *Amount.* 400 milligrams per gallon in drinking water.

(ii) *Indications for use.* For prevention of ulcerative enteritis due to *Clostridium colinum* susceptible to bacitracin methylene disalicylate.

(iii) *Limitations.* Prepare fresh solution daily. Use as sole source of drinking water.

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19026 Filed 7–16–98; 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 Methylene Disalicylate, Decoquinate, and Roxarsone

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 new animal drug application (NADA) filed by Alpharma Inc. The NADA provides for using approved bacitracin methylene disalicylate, decoquinate, and roxarsone Type A medicated articles to make combination drug Type C medicated broiler chicken feeds.

EFFECTIVE DATE: July 17, 1998.

FOR FURTHER INFORMATION CONTACT: Charles J. Andres, Center for Veterinary Medicine (HFV–128), 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 NADA 141–100 that provides for combining approved Type A medicated articles containing BMD® (10, 25, 30, 40, 50, 60, or 75 grams per pound (g/lb) bacitracin methylene disalicylate) with Deccox® (6 percent or 27.2 g/lb decoquinate), and 3-Nitro® (45.4, 90, or 227 g/lb roxarsone) to make Type C medicated broiler feeds containing 50 g/ton (g/t) bacitracin methylene disalicylate, 27.2 g/t decoquinate, and 22.7 to 45.4 g/t roxarsone. The Type C medicated broiler feeds are used as an aid in the prevention of necrotic enteritis, for the prevention of coccidiosis, and for increased rate of weight gain, improved feed efficiency, and improved pigmentation in broiler chickens. The NADA is approved as of June 2, 1998, and the regulations are amended in 21 CFR 558.76(d)(3) and 558.195(d) by adding new entries, and 558.530(d)(5)(x) is revised 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, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

This approval is for use of single ingredient Type A medicated articles to make combination drug Type C medicated feeds. One ingredient, roxarsone, is a Category II drug as defined in 21 CFR 558.3(b)(1)(ii). Prior to enactment of the Animal Drug Availability Act of 1996 (Pub. L. 104–250) (ADAA), an approved medicated feed application (MFA) was required for feed mills to make Type C medicated feeds from Type A medicated articles containing Category II drugs. The ADAA revised the Federal Food, Drug, and Cosmetic Act to replace the requirement for MFA's with a requirement for feed mill licenses.

The agency has determined under 21 CFR 25.33(a)(2) 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 558.76 is amended by adding paragraph (d)(3)(xv) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) * * *

(xv) Decoquinate and roxarsone as in § 558.195.

3. Section 558.195 is amended in the table in paragraph (d) by adding an entry for ''27.2 (0.003 pct)'' following the entry for ''Bacitracin 10 to 50'' and before the entry for ''Chlortetracycline 100 to 200'' to read as follows:

§ 558.195 Decoquinate.

* * * * *

(d) * * *

Decoquinate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
* *	*	* *	*	*
27.2 (0.003 pct)	Bacitracin methylene disalicylate 50 and roxarsone 22.7–45.4.	Broiler chickens; for prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. mivati*, *E. acervulina*, *E. maxima*, *E. brunetti*; as an aid in the prevention of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin; for increased rate of weight gain, improved feed efficiency, and improved pigmentation.	Feed continuously as sole ration. Withdraw 5 days before slaughter. Do not feed to laying chickens. Not for use in breeder chickens. Use as sole source of organic arsenic. Poultry should have access to drinking water at all times. Drug overdosage or lack of drinking water may result in leg weakness or paralysis. Decoquinate, bacitracin methylene disalicylate, and roxarsone, as provided by No. 046573 in § 510.600(c) of this chapter.	046573
* *	*	* *	*	*

3. Section 558.530 is amended by removing and reserving paragraph (c), and by revising paragraph (d)(5)(x) to read as follows:

§ 558.530 Roxarsone.

* * * * *

(c) [Reserved]

(d) * * *

(5) * * *

(x) Decoquinate alone or in combination as in § 558.195.

* * * * *

Dated: July 9, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–19025 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–98–006]

RIN 2115–AE46

Security Zone; Coast Waters Adjacent to Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Pursuant to Presidential Proclamation No. 6867, declaring a national emergency, the Coast Guard, after consultation with the Department of Justice, established a security zone, restricting the operation of certain vessels within the internal waters and territorial seas of the United States, adjacent to or within the coastal waters around southern Florida. The Coast Guard is revising the security zone to encompass all of the internal waters and territorial seas of the United States adjacent to or within the State of Florida and within the boundaries of the Seventh Coast Guard District (defined in 33 CFR 3.35–1); that is, all the described waters in and off Florida with the exception of those waters west of 083–50 W. The Coast Guard Captain of the Port (COTP) may exercise complete control over all vessel operations and movements within the security zone. Non-public vessels of less than 50 meters (165 feet) in length, may not get underway in or depart the security zone with the intent to enter Cuban territorial waters, absent express authorization from the COTP. These vessels control measures are necessary to provide for the safety of the United States citizens and residents and to prevent threatened disturbances of the international relations of the United States.

DATES: This rule is effective July 14, 1998 and will terminate when the National Emergency as declared by the President in Presidential Proclamation No. 6867 terminates. The Coast Guard will publish a separate document in the **Federal Register** announcing termination of this rule.

ADDRESSES: Permission of a Captain of the Port (COTP) to depart the security zone with the intent of entering Cuban territorial waters may be obtained from the following U.S. Coast Guard units: Marine Safety Office Miami, 51 S.W. First Avenue, Miami, FL 33130, ph. (305) 536–5693; Marine Safety Office Tampa, 155 Columbia Drive, Tampa, FL 33603, ph. (813) 228–2195; Marine Safety Office Jacksonville, 7802 Arlington Expy., Suite 400, Jacksonville, FL 32211–7445; Station Miami Beach, 100 MacArthur Causeway, Miami Beach, FL 33139, ph. (305) 535–4368; Station Fort Lauderdale, 7000 N. Ocean Dr., FL 33004, ph. (305) 927–1611; Station Marathon, 1800 Overseas Highway, Marathon, FL 33050, ph. (305) 743–1945; Station Islamorada, PO Box 547, 183 Palermo Dr., Islamorada, FL 33036, ph. (305) 292–8862; Station Key West, Key West, FL 33040, ph. (305) 292–8862; Station Fort Myers Beach, 719 San Carlos Drive, Fort Myers Beach, FL 33931, ph. (813) 463–5754. Additional locations may be established.

FOR FURTHER INFORMATION CONTACT: Chief, Marine Safety Division, Seventh Coast Guard District, 909 SE First Avenue, Brickell Plaza Federal Building, Miami, FL 33931, Phone (305) 536–5651.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Regulatory History

On March 1, 1996, the President of the United States signed Proclamation No. 6867 declaring a national emergency following the February 24 1996, shooting down of two Brothers to the Rescue aircraft by Cuban armed forces. The Proclamation, which addressed the disturbances or threatened disturbances of United States international relations, the President authorized the Secretary of Transportation to regulate the anchorage and movement of domestic and foreign vessels. Order No. 96–3–7, signed by the Secretary of Transportation delegated this authority to the Commandant, United States Coast Guard. This authority has been further delegated to the Commander, Seventh Coast Guard District and appropriate Captains of the Port. To secure the rights and obligations of the United States and to protect its citizens and residents from the use of excessive force upon them by foreign powers, the Coast Guard on March 8, 1996 (61 FR 9348), pursuant to its regulatory authority in 50 U.S.C. 191 and as supplemented by the authority delegated to the Secretary of Transportation in the Presidential Proclamation, established a security zone.

This security zone established on March 1, 1996, restricted the operation of vessels within the internal waters and territorial seas of the United States, adjacent to or within the coastal waters around southern Florida. The security zone prohibits private, noncommercial vessels less than 50 meters in length from departing the security zone with the intent to enter Cuban territorial waters, absent express authorization from the Captain of the Port (COTP).

On May 14, 1997 (62 FR 26390) the Coast Guard published a temporary rule revising the security zone by additional security measures that prohibit a similar class of vessels from getting underway in or departing the security zone with the intent to enter Cuban territorial waters without express authorization from the COTP. Additionally, under the revised security zone, commercial vessels less than 50 meters in length became subject to the same restrictions as private, noncommercial vessels less than 50 meters in length.

Discussion of Rule

This temporary rule further amends the security zone by expanding its geographic scope of the Florida peninsula. During the Pope's visit to Cuba in January, 1998, several boaters asserted that they had evaded the requirements of the security zone by departing for Cuba from a port north of Fort Lauderdale, outside the geographic limits of the prior security zone. Expansion of the geographic limits of the security zone around Florida will cure this potential enforcement problem, thereby enhancing boater safety and better preventing a possible disturbance of the foreign relations of the United States.

The Coast Guard has determined that control of the movement of non-public vessels less than 50 meters in length in the security zone, or departure of such vessels from the security zone, with the intent to enter Cuban territorial waters (hereinafter ''subject vessels''), is necessary to protect the safety of United States citizens and residents and prevent threatened disturbance of the international relations of the United States. These controls do not apply to foreign flag vessels in innocent passage in the territorial sea of the United States. Maintaining such control of vessel movement will necessitate some temporary limitations on traditional freedoms of navigation. Efforts will be made to keep these limitations to a minimum.

A COTP may issue appropriate orders to control the launching, anchorage, docking, mooring, operation, and movement of all subject vessels within the security zone. Additionally, the COTP may remove all persons not specifically authorized to go or remain on board the subject vessel, may place guards on the subject vessel and may take full or partial possession or control of any such vessel or part thereof. Such actions to be taken are in the discretion of the COTP as deemed necessary to ensure compliance with the provisions of the security zone or any other order issued under the authority of the COTP.

Under the special regulations included in this rule, subject vessels may not get underway in or depart from the security zone without express authorization from the COTP. Authorization may be requested in person or in writing. If the request is approved, the COTP will issue a written authorization. As a condition of getting underway in or departing from the security zone, the COTP has the discretion, where there is an articulable basis to believe that a vessel intends to enter Cuban territorial waters, to require the owner, master or person in charge to provide verbal assurance to the COTP that the vessel will not enter Cuban territorial waters and require that the COTP be informed of the identity of all persons on board the vessel.

Vessels 50 meters or greater in length and foreign flagged vessels in innocent passage in the territorial sea of the United States are exempt from these security zone control regulations. Past experiences, including flotillas on July 13, 1995, September 2, 1995, March 2, 1996, July 13, 1996, May 17, 1997, July 13, 1997, November 1, 1997, and January 23–24, 1998, did not involve vessels outside the subject class of vessels. This temporary rule expands the geographic scope of the security zone to the Florida peninsula.

Any non-public vessel less than 50 meters in length getting underway from a berth, pier, mooring, or anchorage in the security zone or departing from the security zone, with the intent to enter Cuban territorial waters, without having express authorization from the COTP will be in violation of the security zone. Failure to comply with the regulations or orders issued under the authority of the COTP may result in seizure and forfeiture of the vessel, suspension or revocation of Coast Guard licenses, and criminal fines and imprisonment. Making a false statement to any agency of the United States may result in additional penalties pursuant to 18 USC § 1001.

This rule is published as a final rule, which is effective upon the signing of this rule. It is based upon a Presidential declaration of a national emergency. Because of recent events discussed in the preamble above, immediate action is needed to protect the safety of lives and property at sea and to prevent threatened disturbance of the international relations of the United States. For this reason, the Coast Guard finds good cause, under 5 USC 553(B) and (d), that notice and public comment on the rule before the effective date of this rule are, impractical, unnecessary, contrary to the public interest and this rule should be made effective in less than 30 days after publication. Further, because this temporary rule involves the foreign affairs of the United States it is excepted from rulemaking procedures in accordance with 5 USC 553(a)(1).

Regulatory Process Matters

This final rule, designed under the emergency conditions, is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. Therefore, a regulatory evaluation is not required. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). For the reasons stated above, the USCG certifies 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. This rule does not impose unfunded mandates or contain reporting or record keeping requirements that require new approval under the Paperwork Reduction Act.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1 of Commandant Instruction M16475.1C, this proposal is categorically excluded from further environmental documentation. A categorical exclusion determination and an environmental analysis checklist have been completed and are available in the docket.

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 this rule will not have sufficient federalism implication to warrant preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures and waterways.

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

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

2. In § 165.T07–013 revise the heading and paragraph (a) to read as set forth below, and republish paragraphs (b) through (d) to read as follows:

§ 165.T07–013 Security Zone: Internal waters and territorial seas adjacent to the Florida peninsula.

(a) *Location.* The following area is established as a security zone: All U.S. internal waters and territorial seas adjacent to the State of Florida south of the Florida-Georgia border and extending seaward three nautical miles from the baseline from which the territorial sea is measured around the Florida peninsula to the extent where the Florida panhandle and adjacent internal waters and territorial sea intersect with longitude 83°50′ West. In general these are the U.S. internal waters and territorial seas adjacent to the Florida peninsula.

(b) *Applicability.* This section applies to non-public vessels less than 50 meters (165 feet) in length and all associated auxiliary vessels within the security zone, but shall not apply to foreign flagged vessels in innocent passage in the territorial sea of the United States. For the purpose of this section, an ''auxiliary vessel'' includes every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water attached to, or embarked in, another vessel to which this section applies.

(c) *Regulations.* (1) The general regulations in § 165.33 of this part do not apply to this security zone.

(2) Non-public vessels less than 50 meters (165 feet) in length and persons on board those vessels may not get underway from a berth, pier, mooring or anchorage in the security zone, or depart from the security zone, with the intent to enter Cuban territorial waters without express written authorization from one of the following officials or their designees; Commander, Seventh Coast Guard District; the Captain of the Port Miami; or the Captain of the Port Tampa. The aforementioned officials may issue orders to control the

movement of vessels to which this section applies.

(3) Where there is an articulable basis to believe a vessel to which this section applies intends to enter Cuban territorial waters, an official referenced in paragraph (c)(2) of this section may require the master, owner, or person in charge of a vessel within the security zone, including all auxiliary vessels, to provide verbal assurance that the vessel will not enter Cuban territorial waters as a condition for a vessel to get underway from a berth, pier, mooring, or anchorage in the security zone, or depart from the security zone. In addition, an official referenced in paragraph (c)(2) may require the master, owner, or person in charge of the vessel to identify all persons on board the vessel and provide verbal assurances that all persons on board have received actual notice of the regulations in this section.

(4) The owner or person in charge of the vessel shall maintain the express written authorization for the vessel on board the vessel.

(d) *Enforcement.* (1) Vessels or persons violating this section may be subject to:

(i) Seizure and forfeiture of the vessel;

(ii) A monetary penalty of not more than $10,000; and

(iii) Imprisonment for not more than 10 years.

(2) Violation of 18 U.S.C. 1001 may result in imprisonment for not more than five years or a fine, or both.

(e) This section implements Presidential Proclamation No. 6867. This section is issued under the authority delegated in Department of Transportation Order No. 96–3–7.

Dated: July 14, 1998.

R.C. Olsen, Jr.,

Captain, U.S. Coast Guard, Commander, Seventh Coast Guard District Acting

[FR Doc. 98–19265 Filed 7–15–98; 3:37 pm]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 20

Stay of Interim Rule for Global Package Link to Germany and France

AGENCY: Postal Service.

ACTION: Stay of interim rule.

SUMMARY: The Postal Service is staying its recently published interim rule on Global Package Link which added a merchandise return service for customers utilizing the GPL service to Germany and France.

DATES: The amendment to the International Mail Manual published in the **Federal Register** on July 10, 1998 (63 FR 37251–37254), is stayed until further notice as of 12:01 a.m. on July 17, 1998.

ADDRESSES: Any written comments should be mailed or delivered to the International Business Unit, U.S. Postal Service, 475 L'Enfant Plaza SW, room 370–IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Bill Brandt (202) 314–7165.

SUPPLEMENTARY INFORMATION: Pending further internal review, the Postal Service is staying an interim rule in the **Federal Register** on July 10, 1998 (63 FR 37251–37254), concerning the establishment of a GPL return service in Germany and France. This stay will be effective immediately, and the contemplated service will not be available until the internal review has been completed and a further notice published.

List of Subjects in 39 CFR Part 20

International postal service, Foreign relations.

The Postal Service hereby stays its amendment of July 10, 1998, to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

I. Subchapter 620 of the International Mail Manual, Issue 20, sections 626.24 and 626.25, are stayed until further notice.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–19170 Filed 7–15–98; 10:40 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6123–4]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to delegate the authority to implement and enforce specific national emission standards for hazardous air pollutants (NESHAPs) to the Arizona Department of Environmental Quality (ADEQ) in Arizona. The preamble outlines the process that ADEQ will use to receive delegation of any future NESHAP, and identifies the NESHAP categories to be delegated by today's action. EPA has reviewed ADEQ's request for delegation and has found that this request satisfies all of the requirements necessary to qualify for approval. Thus, EPA is hereby granting ADEQ the authority to implement and enforce the unchanged NESHAP categories listed in this rule.

DATES: This rule is effective on September 15, 1998, without further notice, unless EPA receives relevant adverse comments by August 17, 1998. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the request for delegation and other supporting documentation are available for public inspection (docket number A–96–25) at the following location: U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, California 94105–3901.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901, (415) 744–1200.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to state or local air pollution control agencies the authority to implement and enforce the standards

set out in 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR Part 63, Subpart E (hereinafter referred to as ''Subpart E''), establishing procedures for EPA's approval of state rules or programs under section 112(l) (*see* 58 FR 62262).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and 40 CFR Part 63, Subpart E. To streamline the approval process for future applications, a state or local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the state or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately implement or enforce an approved rule or program.

On October 30, 1996, EPA approved the Arizona Department of Environmental Quality's (ADEQ's) program for accepting delegation of section 112 standards that are unchanged from Federal standards as promulgated (*see* 61 FR 55910). The approved program reflects an adequate demonstration by ADEQ of general resources and authorities to implement and enforce section 112 standards. However, formal delegation for an individual standard does not occur until ADEQ obtains the necessary regulatory authority to implement and enforce that particular standard, and EPA approves ADEQ's formal delegation request for that standard.

ADEQ informed EPA that it intends to obtain the regulatory authority necessary to accept delegation of section 112 standards by incorporating section 112 standards into the Arizona Administrative Code. The details of this delegation mechanism are set forth in a Memorandum of Agreement (MOA) between ADEQ and EPA, and are available for public inspection at the U.S. EPA Region IX office (docket No. A–96–25).

On May 29, 1998, ADEQ requested delegation for several individual section 112 standards that have been incorporated by reference into the Arizona Administrative Code. The standards that are being delegated by today's action are listed in a table at the end of this rule.

II. EPA Action

A. Delegation for Specific Standards

After reviewing ADEQ's request for delegation of various national emissions standards for hazardous air pollutants (NESHAPs), EPA has determined that this request meets all the requirements necessary to qualify for approval under CAA section 112(l) and 40 CFR 63.91. Accordingly, ADEQ is granted the authority to implement and enforce the requested NESHAPs. These delegations will be effective on September 15, 1998. A table of the NESHAP categories that will be delegated to ADEQ is shown at the end of this rule. Although ADEQ will have primary implementation and enforcement responsibility, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112. In addition, EPA does not delegate any authorities that require implementation through rulemaking in the **Federal Register**, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112.

After a state or local agency has been delegated the authority to implement and enforce a NESHAP, the delegated agency becomes the primary point of contact with respect to that NESHAP. Pursuant to 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii), EPA Region IX waives the requirement that notifications and reports for delegated standards be submitted to EPA as well as to ADEQ.

In its May 29, 1998 request, ADEQ included a request for delegation of the regulations implementing CAA section 112(i)(5), codified at 40 CFR Part 63, Subpart D. These requirements apply to state or local agencies that have a permit program approved under title V of the Act (see 40 CFR 63.70). ADEQ received final interim approval of its title V operating permits program on October 30, 1996 (see 61 FR 55910). State or local agencies implementing the requirements under Subpart D do not need approval under section 112(l). Therefore, EPA is not taking action to delegate 40 CFR Part 63, Subpart D to ADEQ.

ADEQ also included a request for delegation of the regulations implementing CAA sections 112(g) and 112(j), codified at 40 CFR Part 63, Subpart B. These requirements apply to major sources only, and need not be delegated under the section 112(l) approval process. When promulgating the regulations implementing section 112(g), EPA stated its view that ''the Act directly confers on the permitting authority the obligation to implement section 112(g) and to adopt a program which conforms to the requirements of this rule. Therefore, the permitting authority need not apply for approval under section 112(l) in order to use its own program to implement section 112(g)'' (*see* 61 FR 68397). Similarly, when promulgating the regulations implementing section 112(j), EPA stated its belief that ''section 112(l) approvals do not have a great deal of overlap with the section 112(j) provision, because section 112(j) is designed to use the title V permit process as the primary vehicle for establishing requirements'' (*see* 59 FR 26447). Therefore, state or local agencies implementing the requirements under sections 112(g) and 112(j) do not need approval under section 112(l). As a result, EPA is not taking action to delegate 40 CFR Part 63, Subpart B to ADEQ.

B. Delegation Mechanism for Future Standards

Today's document serves to notify the public of the details of ADEQ's procedure for receiving delegation of future NESHAPs. As set forth in the MOA, ADEQ intends to incorporate by reference, into the Arizona Administrative Code, each newly promulgated NESHAP for which it intends to seek delegation. ADEQ will then submit a letter to EPA Region IX, along with proof of regulatory authority, requesting delegation for each individual NESHAP. Region IX will respond in writing that delegation is either granted or denied. If a request is approved, the delegation of authorities will be considered effective upon the date of the response letter from Region IX. Periodically, EPA will publish in the **Federal Register** a listing of the standards that have been delegated. Although EPA reserves its right, pursuant to 40 CFR 63.96, to review the appropriateness of any future delegation request, EPA will not institute any additional comment periods on these future delegation actions. Any parties interested in commenting on this procedure for delegating future unchanged NESHAPs should do so at this time.

C. Opportunity for Public Comment

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal for this action should relevant adverse comments be filed. This action will be effective September 15, 1998, without

further notice unless the Agency receives relevant adverse comments by August 17, 1998.

If EPA receives such comments, then EPA will publish a document withdrawing this final rule and informing the public that the rule will not take effect. All public comments received will then 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 is advised that this rule will be effective on September 15, 1998, and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Orders 12866 and 13045

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

This final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

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 economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Delegations of authority to implement and enforce unchanged Federal standards under section 112(l) of the Clean Air Act do not create any new requirements but simply transfer primary implementation authorities to the State. Therefore, because this action does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected.

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 delegation 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 Federal 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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **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 September 15, 1998. 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 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: June 26, 1998.

David P. Howekamp,

Director, Air Division, Region IX.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(3) to read as follows:

§ 63.99 Delegated federal authorities.

(a) * * *

(3) Arizona. The following table lists the specific Part 63 standards that have been delegated unchanged to the air pollution control agencies in the State of Arizona. The (X) symbol is used to indicate each category that has been delegated.

DELEGATION STATUS FOR PART 63 STANDARDS—ARIZONA

Subpart	Description	ADEQ [1]	MCESD [2]	PDEQ [3]	PCAQCD [4]
A	General Provisions	X			
F	Synthetic Organic Chemical Manufacturing Industry	X			
G	Synthetic Organic Chemical Manufacturing Industry: Process Vents, Storage Vessels, Transfer Operations, and Wastewater.	X			
H	Organic Hazardous Air Pollutants: Equipment Leaks	X			

DELEGATION STATUS FOR PART 63 STANDARDS—ARIZONA—Continued

Subpart	Description	ADEQ [1]	MCESD [2]	PDEQ [3]	PCAQCD [4]
I	Organic Hazardous Air Pollutants: Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.	X			
L	Coke Oven Batteries	X			
M	Perchloroethylene Dry Cleaning	X			
N	Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.	X			
O	Ethylene Oxide Sterilization Facilities	X			
Q	Industrial Process Cooling Towers	X			
R	Gasoline Distribution Facilities	X			
T	Halogenated Solvent Cleaning	X			
U	Group I Polymers and Resins	X			
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X			
X	Secondary Lead Smelting	X			
CC	Petroleum Refineries	X			
DD	Off-Site Waste and Recovery Operations	X			
EE	Magnetic Tape Manufacturing Operations	X			
GG	Aerospace Manufacturing and Rework Facilities	X			
JJ	Wood Furniture Manufacturing Operations	X			
KK	Printing and Publishing Industry	X			
OO	Tanks—Level 1	X			
PP	Containers	X			
QQ	Surface Impoundments	X			
RR	Individual Drain Systems	X			
VV	Oil-Water Separators and Organic-Water Separators	X			
JJJ	Group IV Polymers and Resins	X			

[1] Arizona Department of Environmental Quality.
[2] Maricopa County Environmental Services Department.
[3] Pima County Department of Environmental Quality.
[4] Pinal County Air Quality Control District.

* * * * *

[FR Doc. 98–19136 Filed 7–16–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300682; FRL–6016–8]
RIN 2070–AB78

Myclobutanil; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the fungicide myclobutanil and its metabolites in or on mint (peppermint and spearmint) at 2.5 part per million (ppm) for an additional eighteen months, to January 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on mint (peppermint and spearmint). Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

DATES: This regulation becomes effective July 17, 1998. Objections and requests for hearings must be received by EPA, on or before September 15, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300682], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300682], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: OPP–docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location , telephone number, and e-mail address: Rm. 280, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-9358; e-mail: deegan.dave@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of July 9, 1997 (62 FR 36671) (FRL–5729–3), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of myclobutanil and its metabolites in or on mint (peppermint and spearmint) at 2.5 ppm, with an expiration date of July 1, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will

result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of myclobutanil on mint for this year's growing season due to the recurrence of emergency levels of powdery mildew on mint grown in the states of Idaho and Washington. After having reviewed the submission, EPA concurs that emergency conditions exist for these states. EPA has authorized under FIFRA section 18 the use of myclobutanil on mint for control of powdery mildew in Idaho and Washington.

EPA assessed the potential risks presented by residues of myclobutanil in or on mint (peppermint and spearmint). In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of July 9, 1997 (62 FR 36671). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional eighteen month period. Although this tolerance will expire and is revoked on January 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on mint (peppermint and spearmint) after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 15, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document

Electronic comments may be sent directly to EPA at: OPP–docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 51/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300682]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerancethat was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels

or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 30, 1998.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.443 [Amended]

2. In § 180.443, by amending paragraph (b) in the table, for the commodities ''Peppermint'' and ''Spearmint'' by changing the date ''July 1, 1998'' to read ''1/31/00''.

[FR Doc. 98–18988 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300612; FRL–5768–3]

RIN 2070–AB78

Fipronil; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes new tolerances for combined residues of fipronil, its metabolites MB46136 and MB45950, and its photodegradate MB46513, in or on rice grain and rice straw. In pesticide petition (PP) 7F4832, Rhone Poulenc AG, Inc. requested these tolerances under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1966 (FQPA).

DATES: This regulation is effective July 17, 1998. Objections and requests for hearings must be received by EPA on or before September 15, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, OPP–300612, must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, OPP–300612, must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number OPP–300612. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Ann Sibold, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6788, e-mail: sibold.ann@epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 20, 1997 (62 FR 33641) (FRL–5723–7), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a(e), announcing the filing of a pesticide petition for a tolerance (PP 7F4832) by Rhone Poulenc AG, Inc., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. This notice included a summary of the petition prepared by Rhone Poulenc AG, Inc., the registrant. There were 11 comments received in response to the notice of filing and all supported establishing the tolerance.

The petition proposed to use a 56% flowable solid (FS) formulation (Product name: ICON 6.2 FS Insecticide) to treat rice seed to control the pests rice water weevil and chinch bugs.

The petition further requested that 40 CFR 180.517 be amended by establishing new tolerances for combined residues of the insecticide fipronil, its metabolites MB46136 and MB45950, and its photodegradate MB46513 in or on rice grain at 0.04 parts per million (ppm) and rice straw at 0.10 ppm. Tolerances for residues of fipronil (expressed as fipronil and its metabolites MB45950 and MB46136) in or on animal commodities have recently been established (40 CFR 180.517(a)).

Fipronil is registered in the United States for use on field corn, on golf course and commercial turf, on pets, and in roach and ant bait stations.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate

exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no-observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter-term risks, EPA uses a RfD approach or calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential-human carcinogen, different types of risk assessments (e.g., linear low-dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide-exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute,'' ''short-term,'' ''intermediate-term,'' and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single-oral exposure to the pesticide residues. High-end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very-low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure.

In examining aggregate exposure, section 408 of the FFDCA requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is

greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

II. Aggregate Risk Assessment and Determination of Safety

The toxicology data base for fipronil has previously been evaluated and was considered adequate to support registration for use on corn (62 FR 62970) (FRL–5757–4). Since that time, MB46513 has been identified. It appears to have greater toxicity than the parent, fipronil. MB46513 is not an animal or plant metabolite. Rather, it forms when the parent compound fipronil is exposed to sunlight. It is not present on corn, but is potentially present on rice due to the foliar application (to germinated rice seed).

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of fipronil and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for tolerances for combined residues of fipronil, its metabolites MB46136 and MB45950, and its photodegradate MB46513 in or on rice grain at 0.04 ppm and rice straw at 0.10 ppm.

A. Toxicology Data Base

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fipronil and its photodegradate MB46513 are discussed in this unit.

1. *Acute studies*—i. *Technical fipronil.* A battery of acceptable acute toxicity studies place technical fipronil in toxicity Categories II and III. It is classified as a non-sensitizer.

ii. *Icon 6.2 FS (56% fipronil).* A battery of acute toxicity studies submitted for Icon 6.2 FS places it in toxicity categories II and III. This formulation is classified as a sensitizer.

iii. *MB46513.* Based on acute oral and acute dermal studies, MB46513 is classified in toxicity category I. No studies were submitted for acute inhalation, primary eye, primary dermal, and dermal sensitization.

2. *Subchronic toxicity testing.* The data base for subchronic toxicity is considered complete. No additional studies are required at this time.

i. *Fipronil.* a. An acceptable subchronic oral toxicity feeding study in the rat established the lowest observed-effect level (LOEL) to be 30 ppm for males (1.93 milligram (mg)/kilogram (kg)/day) and females (2.28 mg/kg/day) based on alterations in serum-protein values and increased weight of the liver and thyroid. The NOEL was 5 ppm for males (0.33 mg/kg/day) and females (0.37 mg/kg/day).

b. An acceptable subchronic oral toxicity feeding study in the mouse established the LOEL at 25 ppm (3.2 and 4.53 mg/kg/day, for males and females, respectively) based on a possible decreased body-weight gain. The no-observed adverse-effect level (NOAEL) was 10 ppm (1.27 and 1.72 mg/kg/day, for males and females, respectively). The NOEL is less than or equal to 1 ppm (0.13 and 0.17 mg/kg/day for males and females, respectively) based on hepatic hypertrophy at all doses.

c. An acceptable subchronic oral toxicity [capsule] study in the dog established that the LOEL is 10.0 mg/kg/day for males (based on clinical signs of toxicity) and 2.0 mg/kg/day for females (based on clinical signs of toxicity and decreased body-weight gain). The NOEL is 2.0 mg/kg/day for males and 0.5 mg/kg/day for females.

d. An acceptable repeated dose dermal study using the rat found that the systemic LOEL was 10 mg/kg/day based on decreased body-weight gain and food consumption; the dermal irritation LOEL is greater than 10.0 mg/kg/day. The systemic NOEL was 5.0 mg/kg/day; the dermal irritation NOEL was greater than or equal to 10.0 mg/kg/day.

ii. *MB46513.* a. An acceptable subchronic oral toxicity feeding study using the rat found that the LOEL was 3 ppm (0.177 and 0.210 mg/kg/day for males and females, respectively) based on the occurrence of aggressivity, irritability to touch and increased motor activity in one male (these signs are also observed in the mouse). The NOEL was 0.5 ppm (0.029 and 0.035 mg/kg/day for males and females, respectively). The study demonstrates that the metabolite is more toxic than the parent chemical fipronil when administered to rats for 90 days.

b. An acceptable subchronic oral toxicity feeding study using the mouse found that the LOEL is 2 ppm (0.32 mg/kg/day), based on the aggressive and irritable behavior with increased motor activity in males. The NOEL is 0.5 ppm (0.08 mg/kg/day).

c. An acceptable subchronic oral toxicity feeding study using the dog established that the LOEL is 35 ppm (1.05 mg/kg/day), based on behavioral changes in 2 out of 5 females. The NOEL is 9.5 ppm (0.29 mg/kg/day).

3. *Chronic toxicity studies.* The data base for chronic toxicity is considered complete. No additional studies are required at this time.

i. An acceptable chronic feeding study in the rat using fipronil found that the LOEL is 1.5 ppm for males (0.059 mg/kg/day) and females (0.078 mg/kg/day) based on an increased incidence of clinical signs and alterations in clinical chemistry and thyroid parameters. The NOEL is 0.5 ppm for males (0.019 mg/kg/day) and females (0.025 mg/kg/day). The study demonstrated that fipronil is carcinogenic to rats at doses of 300 ppm in males (12.68 mg/kg/day) and females (16.75 mg/kg/day).

ii. An acceptable chronic oral toxicity [capsule] study in the dog using fipronil established a LOEL at 2.0 mg/kg/day based on clinical signs of neurotoxicity and abnormal neurological examinations. The NOEL is 0.2 mg/kg/day.

4. *Carcinogenicity studies.* The data base for carcinogenicity is considered complete. No additional studies are required at this time.

i. The results of a carcinogenicity study in the rat using fipronil is described in Unit II.A.3.i of this preamble.

ii. A acceptable carcinogenicity [feeding] study in the mouse using fipronil found that the LOEL is 10 ppm (1.181 mg/kg/day for males and 1.230 mg/kg/day for females) based on decreased body-weight gain, decreased food conversion efficiency (males), increased liver weights and increased incidence of hepatic histopathological changes. The NOEL is 0.5 ppm (0.055 mg/kg/day for males and 0.063 mg/kg/day for females). The study demonstrated that fipronil is not carcinogenic to CD–1 mice when administered at doses of 30 ppm.

5. *Developmental toxicity studies.* The data base for developmental toxicity is considered complete. No additional studies are required at this time.

i. *Fipronil.* a. An acceptable prenatal developmental study in the rat found that the maternal toxicity LOEL was 20 mg/kg/day based on reduced body-weight gain, increased water consumption, reduced food consumption, and reduced food efficiency. The maternal toxicity NOEL was 4 mg/kg/day. The developmental toxicity LOEL was greater than 20 mg/

kg/day. Developmental toxicity NOEL was 20 mg/kg/day or higher.

b. An acceptable prenatal developmental study in the rabbit found that the maternal toxicity LOEL was 0.1 mg/kg/day or lower, based on reduced body-weight gain, reduced food consumption and efficiency. Maternal toxicity NOEL was less than 0.1 mg/kg/day. The developmental toxicity LOEL was greater than 1.0 mg/kg/day. The developmental toxicity NOEL was 1.0 mg/kg/day or higher.

ii. *MB46513*. An acceptable prenatal developmental study using the rat found that the maternal toxicity LOEL was 2.5 mg/kg/day and the NOEL was 1.0 mg/kg/day based an increase in clinical signs of toxicity (reduced body-weight gain, food consumption and food efficiency). The Developmental Toxicity LOEL was 2.5 mg/kg/day and the NOEL was 1.0 mg/kg/day based on the slight increase in fetal and litter incidence of reduced ossification of several bones.

6. *Reproduction toxicity studies*. The data base for reproductive toxicity is considered complete. No additional studies are required at this time.

An acceptable two-generation reproduction study in the rat using fipronil concluded that the LOEL for parental (systemic) toxicity was 30 ppm (2.54 mg/kg/day for males and 2.74 mg/kg/day for females) based on increased weight of the thyroid glands and liver in males and females; decreased weight of the pituitary gland in females; and an increased incidence of follicular epithelial hypertrophy in the females. The NOEL for parental (systemic) toxicity was 3 ppm (0.25 mg/kg/day for males and 0.27 mg/kg/day for females).

The LOEL for reproductive toxicity was 300 ppm (26.03 mg/kg/day for males and 28.40 mg/kg/day for females) based on clinical signs of toxicity in the F_1 and F_2 offspring; decreased litter size in the F_1 and F_2 litters; decreased body weights in the F_1 and F_2 litters; decrease in the percentage of F_1 parental animals mating; reduction in fertility index in F_1 parental animals; reduced post-implantation survival and offspring postnatal survivability in the F2 litters; and delay in physical development in the F_1 and F_2 offspring. The NOEL for reproductive toxicity was 30 ppm (2.54 mg/kg/day for males and 2.74 mg/kg/day for females).

7. *Neurotoxicity*. The data base for neurotoxicity is considered complete. No additional studies are required at this time.

i. *Fipronil*. a.An acceptable acute neurotoxicity study in the rat concluded the following: The NOEL was 0.5 mg/kg for males and females. The LOEL was 5.0 mg/kg for males and females based on decreased hind-leg splay at the 7 hour post-treatment evaluation in males and females.

b. An acceptable acute neurotoxicity study in the rat concluded that the NOEL was 2.5 mg/kg. The LOEL is 7.5 mg/kg, based on decreased body-weight gains, food consumption and feed efficiency in females, decreased hindlimb splay in males (at 7-hours post test) and decreased grooming in females (14-days post test).

c. An acceptable subchronic neurotoxicity screening battery in the rat concluded the LOEL was 150 ppm (8.89 mg/kg/day, males; 10.8 mg/kg/day, females) based on the results of the functional observational battery (FOB); the NOEL was 5.0 ppm (0.301 mg/kg/day, males; 0.351 mg/kg/day, females).

d. In a developmental neurotoxicity study, fipronil was administered to 30 female rats/group in the diet at dose levels of 0, 0.5, 10, or 200 ppm (0.05, 0.90, or 15 mg/kg/day, respectively) from gestation day 6 to lactation day 10. This study found that the maternal LOEL was 200 ppm (15 mg/kg/day), based on decreased body weight, body-weight gain, and food consumption. The maternal NOEL was 10 ppm (0.90 mg/kg/day). The developmental toxicity LOEL is 10 ppm (0.9 mg/kg/day), based on a marginal but statistically significant decrease in group mean pup weights during lactation and significant increase in time of preputial separation in males. The NOEL for developmental toxicity is 0.5 ppm (0.05 mg/kg/day). The developmental neurotoxicity LOEL is 200 ppm (15 mg/kg/day) based on: Decreased auditory startle response; reduced swimming direction scores, group mean angle measurements, and water ''Y'' maze times trails; and decreased absolute-brain weights. The NOEL for developmental neurotoxicity is 10 ppm (0.90 mg/kg/day).

It is noted that developmental toxicity occurred at a dose lower than the maternal-toxicity NOEL in this study. However, EPA did not consider this to indicate increased susceptibility to infants and children. See Unit II.F.1.ii.d of this preamble for a detailed discussion of this point.

ii. *MB46513*. An acceptable acute neurotoxicity study in the rat concluded that the neurobehavioral LOEL for rats is 12 mg/kg based on decreases in body-weight gains and food consumption for males and females during the week following treatment, significant decreases in locomotor activity 6-hours post dosing for both males and females, decreases in hind-limb splay and rectal temperature at 6-hours post dose in males and females, decreases in the proportion of high-dose males with an immediate righting reflex on days 7 and 14. Decreased forelimb grip strength in males on day 7 and increased forelimb grip strength in high-dose females at 6-hours post dosing was possibly related to the treatment, because there were also slight increases in forelimb grip strength in high-dose males at 6 hours and slight decreases in forelimb grip strength in high dose females at 7 days and in high-dose males and females at 14 days.. The NOEL is 2 mg/kg.

8. *Mutagenicity*. The available studies indicate that fipronil and MB46513 are not mutagenic in bacteria and are not clastogenic *in vitro* or *in vivo* up to doses that showed clear test material interaction with the target cells. Based on these considerations, EPA concluded that there is no concern for mutagenicity. The submitted test battery for both compounds satisfy the new mutagenicity initial testing battery guidelines. No further studies are required at this time.

i. *Fipronil*. a. An acceptable gene mutation/bacteria test using salmonella typhimurium concluded that fipronil was not mutagenic.

b. An acceptable *in vitro* gene mutation assay in mammalian cells/Chinese hamster V79 cells concluded as follows: Fipronil was negative for inducing forward gene mutations at the HGPRT locus in cultured Chinese hamster V79 cells.

c. An acceptable cytogenetic *in vivo* micronucleus assay in the mouse concluded as follows: There was no evidence of a clastogenic or aneugenic effect at any dose or at any harvest time.

d. An acceptable cytogenetic assay in human lymphocytes concluded as follows: There was no evidence of a clastogenic effect when human lymphocytes were exposed *in vitro* to fipronil.

ii. *MB46513*. a. An acceptable gene mutation/bacteria test using salmonella typhimurium showed that there was no evidence of a mutagenic response at any dose.

b. An acceptable gene mutation/*in vitro* assay in mammalian cells considering the HPRT locus in Chinese Hamster Ovary (CHO) cells showed that MB46513 did not induce forward mutations at the HPRT locus in CHO cells at any dose level tested.

c. An acceptable cytogenetics/*in vivo* mouse bone marrow micronucleus assay showed that there was no significant increase in the frequency of MPCEs in bone marrow after any MB46513 treatment time; therefore, the test article is considered negative in this micronucleus assay.

9. *Metabolism study*. The data base for metabolism is considered to be

complete. No additional studies are required at this time.

i. *Fipronil.* An acceptable metabolism study in the rat using 14–C labeled and unlabeled fipronil showed the following: With oral dosing, the rate and extent of absorption appeared similar among all dose groups, but may have been decreased at the high dose. There were no significant sex-related differences in excretion. Feces appeared to be the major route of excretion for fipronil derived radioactivity, where 45–75% of an administered dose was excreted. Excretion in urine was between 5–25%. Major metabolites in urine included two ring-opened products of the metabolite MB45897, two oxidation products (MB46136 and RPA200766), and the parent chemical. In feces, the parent was detected as a significant fraction of the sample radioactivity as well as the oxidation product MB46136 and MB45950. Since MB46513 is not an animal metabolite but a photodegradate, it was not found in this study.

ii. *MB46513.* In a acceptable rat metabolism study, ^{14}C labeled MB46513 was administered to rats by gavage as a single dose or as a single dose following a 14–day pretreatment with unlabeled MB46513. Unchanged MB46513 in urine accounted for less than 0.1% of the dose. Fecal excretion of unchanged MB46513 is the principal pathway for elimination of MB46513 from rats. The high levels of radioactivity in fat compared to blood and the prolonged elimination half-life indicate that there is a potential for bioaccumulation of MB46513 in fatty tissues.

10. *Dermal absorption*—i. *Fipronil.* An acceptable study using the rat found that the quantity of fipronil absorbed was less than 1% at all doses. The system was saturated at 3.88 mg/cm^2. The dermal absorption rat was calculated to be less than 1% at 24 hours.

ii. *MB46513.* An acceptable study in the rat using [^{14}C] labeled MB46513 found that after 24 hours of exposure, dermal absorption of MB46513 was minimal. For all dose groups, the majority of the dose was not absorbed (90.2–102.3%), and only trace amounts (equal to or less than 0.1%) of radioactivity were excreted in the urine and feces. There was 2.35% adhered to the skin and absorbed at the 10 hour time point with the lowest dose applied (0.006 mg/cm^2).

11. *Special studies*—i. *Fipronil.* a. A supplemental thyroid function study in the rat showed the following: The treatment with fipronil or Noxyflex appeared to result in stimulation of the thyroid glands as evidenced by increased accumulation of ^{125}I in the thyroid glands and by increases in the ratios of radioactive distribution between the blood and thyroid. These changes were accompanied by increases in thyroid weight. Treatment with propylthiouracil (PTU) produced decreases in the amount of ^{125}I incorporated in the thyroid and in the blood: Thyroid ratios along with elevated levels of ^{125}I in the blood. However, the weights of the thyroids from these animals were increased by over 2.5 fold compared to the controls and therefore, the ratio of ^{125}I in the blood to thyroid weight was reduced. The administration of perchlorate produced further reductions in the ^{125}I content in the thyroids and in the blood: Thyroid ^{125}I radioactivity ratio. There was no evidence of an inhibition of iodide incorporation by either fipronil or noxyflex.

b. A supplemental thyroxine clearance study in the rat using technical fipronil showed the following: Fipronil had no effect on mortality or other ante mortem parameters. Phenobarbital-treated animals were observed to have collapsed posture, lethargy and shallow breathing on the first day of treatment. There was no effect of fipronil on clearance after 1 day of treatment. However, after 14 days, there was a decrease in terminal half life (52% of control level) and increases in clearance and volume of distribution (261% and 137% of control level, respectively). The effects seen with phenobarbital treatment were similar, although quantitatively not as severe and were evident on day one of treatment.

c. An acceptable 28–day dietary study in the rat concluded that the LOEL is 25 ppm or lower (3.4 mg/kg/day in males; 3.5 mg/kg/day in females), based on clinical laboratory changes, increased absolute liver weights in females and histopathological alterations in the thyroid glands. The NOEL is less than 25 ppm.

ii. *MB46513.* An acceptable 28–day dietary range-finding study in the rat measured thyroid hormone levels as well as standard study parameters. It found that the LOEL is 30 ppm (2.20 and 2.32 mg/kg/day for males and females, respectively), based on clinical signs including piloerection, curling up and thin appearance; and decreased body weights in both sexes. The NOEL is 3 ppm (0.23 and 0.24 mg/kg/day for males and females, respectively).

B. Toxicology Endpoints

The toxicology endpoints for fipronil and MB46513 are presented in this unit.

1. *Fipronil*—i. *RfD.* The RfD for fipronil is 0.0002 mg/kg/day using a NOEL of 0.019 mg/kg/day (0.5 ppm) established from a combined chronic toxicity/carcinogenicity study in rats and an uncertainty factor of 100. The LOEL=1.5 ppm (male (M): 0.059 mg/kg/day; female (F): 0.078 mg/kg/day), based on an increased incidence of clinical signs (seizures and death) and alterations in clinical chemistry (protein) and thyroid parameters.

ii. *Carcinogenic classification and risk quantification.* EPA has classified this chemical as a Group C—Possible Human Carcinogen, based on increases in thyroid follicular-cell tumors in both sexes of the rat, which were statistically significant by both pair-wise and trend analyses. EPA has used the RfD methodology to estimate human risk because the thyroid tumors are due to a disruption in the thyroid-pituitary status. There was no apparent concern for mutagenicity.

iii. *Dermal absorption.* The percent absorbed was less than 1% at 24 hours based on a dermal absorption study.

iv. *Other toxicological endpoints*—a. *Acute dietary (1 day).* In an acute neurotoxicity study in rats the NOEL was 2.5 mg/kg/day based on decreased body-weight gains, food consumption and feed efficiency in females, and decreased hind-limb splay in males at 7-hours post dosing at 7.5 mg/kg/day LOEL. Although a developmental neurotoxicity study with the parent compound fipronil had a lower NOEL, EPA determined that the effects from that study are not attributable to a single exposure (dose) and therefore are not appropriate for acute dietary-risk assessments.

b. *Short- and intermediate-term residential (dermal).* In a 21-day dermal study the NOEL was 5 mg/kg/day based on decreased body-weight gain and food consumption in male and female rabbits observed at the LOEL of 10 mg/kg/day. The dermal NOEL is supported by the oral NOEL of 0.05 mg/kg/day established in a developmental neurotoxicity study when used in conjunction with a dermal absorption factor of 1%. This yields an equivalent-dermal dose of 5 mg/kg/day.

c. *Chronic residential (non-cancer).* In a combined chronic toxicity/carcinogenicity study in the rat, the NOEL is 0.5 ppm (M: 0.019 mg/kg/day; F: 0.025 mg/kg/day), based on an increased incidence of clinical signs (seizures and death) and alterations in clinical chemistry (protein) and thyroid parameters (increased TSH, decreased T4) at 1.5 ppm (M: 0.059 mg/kg/day; F: 0.078 mg/kg/day). Since the NOEL identified is from an oral study, a

dermal absorption factor of less than 1% was used in risk calculations. (This study/dose was also used to establish the chronic RfD).

2. *MB46513*—i. *RfD*. There is no long-term (chronic or carcinogenicity) studies are available for MB46513. However, the toxicity profile of MB46513 indicate this material to be approximately 10 times more potent than the parent compound when the NOELs/LOELs are compared (with the exception of the acute toxicity tests). See table 1 in this preamble.

TABLE 1.—A COMPARISON OF TOXICITIES OF PHOTODEGRADATE MB46513 AND FIPRONIL

Study	Photodegradate MB46513	Fipronil
Acute Oral.	LD_{50}= 16 mg/kg	LD_{50}= 92 mg/kg
Acute Neurotoxicity.	NOEL/LOEL= 2/12 mg/kg	NOEL/LOEL= 2.5/7.5 mg/kg NOEL/LOEL= 0.5/5.0 mg/kg
28–Day Oral—Rat.	NOEL/LOEL= 0.23/2.2 mg/kg/day	NOEL/LOEL= 3.4 mg/kg/day lowest dose tested (LDT)
90–Day Oral—Mouse.	NOEL/LOEL= 0.08/0.32 mg/kg/day	NOEL/LOEL= 1.7/3.2 mg/kg/day
90–Day Oral—Rat.	NOEL/LOEL= 0.029/0.18 mg/kg/day	NOEL= 0.33/1.9 mg/kg/day
Developmental—Rat.	Maternal NOEL/LOEL= 1/2.5 mg/kg/day Developmental NOEL/LOEL= 1/2.5 mg/kg/day	Maternal NOEL/LOEL= 4/20 mg/kg/day Developmental NOEL/LOEL= 20 mg/kg/day highest dose tested (HDT)

As shown in table 1 of this preamble, the 28-day and 90-day subchronic oral studies and oral developmental studies consistently demonstrated an approximately 10-fold greater potency of MB46513 as compared to the parent compound, fipronil. In the acute oral tests, the difference between the LD_{50} values for MB46513 and fipronil is not considered significant due to the insensitivities inherent in this test.

EPA concluded that there is sufficient experimental evidence to warrant the application of a 10-fold Potency Adjustment Factor (PAF) to the chronic NOEL for the parent compound to calculate a chronic NOEL for MB46513 in the absence of test data on the chemical. An adjusted NOEL was established at 0.0019 mg/kg/day for MB46513.

An Uncertainty Factor (UF) of 100 was applied to account for inter (10 x)- and intra-(10x) species variation.

ii. *Carcinogenic classification and risk quantification*. No carcinogenicity studies are available with MB46513. Fipronil, the parent compound, was classified as a Group C Carcinogen (Possible Human Carcinogen). This classification is based on increased incidence of thyroid follicular-cell tumors in rats. EPA used the RfD methodology for the quantification of human risk because the thyroid tumors are related to a disruption in the thyroid-pituitary status and there was no apparent concern for mutagenicity or available information from structurally related analogs. EPA has no reason to believe MB46513 is more carcinogenic than the parent. EPA determined that it was appropriate to use the RfD methodology to quantify chronic risk for MB46513. The NOEL used for the chronic RfD has been adjusted by the PAF to account for the fact that MB46513 is about 10 times more toxic than the parent (except for acute toxicity).

iii. *Dermal absorption*. The percent absorbed is estimated at approximately 2% at 10 hours based on a dermal absorption study with MB46513.

iv. *Other toxicological endpoints*—a. *Acute dietary*. The NOEL is 2 mg/kg in an acute neurotoxicity study in rats (with MB46513) based on significant decreases in locomotor activity in both sexes during the first 30 minutes as well as decreases in hind-limb splay and rectal temperature in both sexes at 6-hours post dosing at 12 mg/kg/day LOEL. Effects were seen on the day of treatment after a single-oral exposure (dose) and thus is appropriate for this risk assessment. For reasons noted in Unit II.B.1.iv of this preamble, EPA did not use a developmental neurotoxicity study with the parent compound fipronil for this risk assessment.

b. *Short- and intermediate-term dermal exposure (1 to 7 days) (1 week to several months)*. The adjusted dose of 0.5 mg/kg/day was derived by dividing the study NOEL of 5 mg/kg/day by the PAF of 10 (5/10= 0.5 mg/kg/day). The LOEL was based on decreases in body-weight gain and food consumption. The dose and endpoint from the 21-day dermal study with the parent compound was used for the following reasons:

(1) A 21–dermal toxicity study with MB46513 is not available.

(2) There is low potential for risk from dermal exposure due to minimal dermal absorption as indicated for both the parent (< 1%) and the MB46513 (2%) materials.

(3) The developmental/developmental neurotoxicity NOEL of 0.05 mg/kg/day for fipronil (established in the developmental neurotoxicity study), adjusted for 1% dermal absorption (DA), results in a comparable dermal dose of 5 mg/kg/day (i.e., 0.05 mg/kg/day ′ 1% DA= 5 mg/kg/day) which essentially is the same as the NOEL for fipronil in the 21–day dermal toxicity study.

Residential exposure to MB46513 is not expected while spraying or handling a recently treated pet as these are brief periods usually occurring indoors, and MB46513 forms upon exposure to sunlight. Post-application exposure to the degradate is also not expected due to the products reportedly strong affinity to the sebum and epidermis of pets.

c. *Chronic dermal exposure (several months to lifetime)*. Based on the current use pattern for MB46513 (i.e., 1 application/year at planting), long-term exposure via the dermal route is not expected. Residential exposures are not chronic in nature as label uses for pets indicate treatment every 1 to 3 months.

d. *Recommendation for aggregate exposure risk assessments*. An aggregate systemic (oral) and dermal exposure-risk assessment is not appropriate due to differences in the toxicity endpoints observed between the oral (neurotoxicity and alterations in clinical chemistry and thyroid parameters) and dermal (decreases in body-weight gain and food consumption) routes. An aggregate oral and inhalation risk assessment is not required due to the lack of exposure potential via the inhalation route based on the current use pattern.

C. Exposures and Risks

1. *From food and feed uses*. Tolerances have been established (40 CFR 180.517) for the combined residues of fipronil in or on on corn, eggs, meat, milk, and poultry. Risk assessments were conducted by EPA to assess dietary exposures and risks from fipronil and MB46513 as follows:

i. *Acute dietary risk*. An acute dietary risk assessment is required for fipronil and its metabolites and degradate. The NOEL of 2.5 mg/kg was selected as the endpoint to be used for fipronil, MB46136, MB45950, and MB46513. Since MB46513 does not appear to be significantly more acutely toxic than the parent, it was incorporated into the acute dietary risk evaluation system (DRES) run for rice. If further refinements in the acute dietary risk assessment are required in the future, a separate DRES run for MB46513 only will be performed.

TABLE 2.—ACUTE RISK FOR FIPRONIL, ITS METABOLITES, AND DEGRADATE

Subgroup	RfD (mg/kg/day)	Level of concern	Exposure (mg/kg/day)	Percent of RfD
General U.S. Population.	0.025	100% RfD	0.0018	7
Infants (< 1 year).	0.025	100% RfD	0.003	12
Children (1–6 years).	0.025	100% RfD	0.003	12
Females (13+ years).	0.025	100% RfD	0.0012	5

TABLE 2.—ACUTE RISK FOR FIPRONIL, ITS METABOLITES, AND DEGRADATE—Continued

Subgroup	RfD (mg/kg/day)	Level of concern	Exposure (mg/kg/day)	Percent of RfD
Males (13+ years).	0.025	100% RfD	0.0014	6

EPA does not consider the acute dietary risks to exceed the level of concern.

ii. *Chronic dietary risk*. A chronic dietary risk assessment is required for fipronil, MB46136, and MB45950. The RfD used for the chronic dietary analysis for parent fipronil and 2 metabolites is 0.0002 mg/kg/day. The RfD used for MB46513 is 0.00002 mg/kg/day. The analysis evaluates individual food consumption as reported by respondents in the United States Department of Agriculture (USDA) 1977–78 Nationwide Food Consumption Survey (NFCS) and accumulates exposure to the chemical for each commodity.

Chronic DRES for fipronil, MB46136, MB45950, and MB46513 are summarized in Table 3 of this preamble. The DRES analysis utilized the anticipated residues calculated from field-trial data for all animal, corn, and rice commodities. The proposed fipronil uses result in an Anticipated Residue Contribution (ARC) that is equivalent to the following percent of the RfD:

TABLE 3.—CHRONIC DIETARY RISK

Subgroups	Fipronil, MB46136, and MB45950	Photodegradate MB46513	Total
U.S. Population (48 states)	4.8%	1.7%	6.5%
Hispanics	6.2%	2.9%	8.1%
Non-Hispanic Others	5.8%	3.9%	9.7%
Nursing Infants (< 1 year old)	2.8%	2.3%	5.1%
Non-Nursing Infants (< 1 year old)	11.2%	5.5%	16.7%
Females (13+ years, pregnant)	3.3%	1.2%	4.5%
Females (13+ years, nursing)	4.2%	1.6%	5.8%
Children (1–6 years old)	11.4%	3.8%	15.2%
Children (7–12 years old)	7.6%	2.3%	9.9%
Females (20+ years, not pregnant, not nursing).	3.0%	1.2%	4.2%

EPA does not consider the chronic dietary risk to exceed the level of concern.

Anticipated residues. Section 408(b)(2)(E) of the FFDCA authorizes EPA to consider available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate.

Percent crop treated. Section 408(b)(2)(F) of the FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk onl if the Agency can make the following findings:

(1) That the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue.

(2) That the exposure estimate does not underestimate exposue for any significant subpopulation group.

(3) If data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposue for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated as required by the section 408 (b)(2)(F) of the FFDCA, EPA may require registrants to submit data on percent crop treated.

Anticipated residues, based on average field trial values, and percent crop treated information were used to estimate dietary risk for the chronic dietary risk assessment. For the acute dietary risk assessment, anticipated residues in blended commodities (such as corn and rice processed commodities) were used, without the adjustment for percent crop treated. However, tolerance level residues were used for fat; meat by-products; meat of cattle, goats, hogs, horses, sheep, and poultry; and eggs. Since milk is a blended commodity, an anticipated residue value was used. As required by the FQPA, EPA will issue a data call-in under section 408(f) of the FFDCA to all fipronil registrants for data on anticipated residues, to be submitted no later than 5 years from the date of issuance of these tolerances.

The percent of crop treated estimates for fipronil and MB46513 were based on an estimate of percent crop treated by existing products used to control rice water weevil and chinch bugs. In addition, as set forth in 62 FR 62970, market share estimates were used for corn. They were based on an estimate of percent crop treated by other insecticides to control corn rootworm, wireworm, and corn borer. EPA considers these data reliable. A range of estimates are supplied by this data and the upper end of this range was used for the exposure assessment. By using this upper end estimate of percent crop treated, the Agency is reasonably certain that exposure is not underestimated for any significant subpopulation. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Review of this regional

data allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency.

To provide for the periodic evaluation of these estimates of percent crop treated and to meet the requirement for data on anticipated residues, EPA may require fipronil registrants to submit data on percent crop treated.

2. *Dietary exposure (drinking water source).* EPA does not have monitoring data available to perform a quantitative drinking water risk assessment for fipronil at this time. Using environmental fate data, EPA developed ground and surface water exposure estimates for use on corn and rice.

i. *Ground water (tiered assessment).* The environmental fate data for fipronil indicate a moderate to high persistence and relatively low mobility in terrestrial environments. Based on the SCI-GRO model, acute drinking water concentrations in shallow ground water on highly vulnerable sites are not likely to exceed the values set forth in tables 4–7 of this preamble:

TABLE 4.—ESTIMATED GROUND WATER RESIDUES OF FIPRONIL AND ITS METABOLITES

	Corn parts per billion (ppb)	Rice (ppb)
Fipronil	0.055	0.00804
MB46136	0.001	0.00038
MB45950	0.00036	0.000685
Total:	0.05636	0.009105

TABLE 5.—ESTIMATED GROUND WATER RESIDUES OF PHOTODEGRADATE MB46513

	Corn (ppb)	Rice (ppb)
Photodegradate MB46513.	0.00026	0.004138

Chronic concentrations are not expected to be higher than acute values. Highly vulnerable sites are those with low-organic matter, coarse textured soils (e.g., sands and loamy sands) and shallow-ground water. The fate data for fipronil and its degradates indicate a higher potential mobility on coarse-textured soils (sand or loamy sands).

ii. *Surface water (tiered assessment).* Based on the environmental fate assessment, fipronil, MB46513, MB46136, and MB45950 can potentially move into surface waters. Since fipronil is used as an in-furrow application on field corn, the runoff potential of fipronil residues is expected to be lower than for unincorporated surface application techniques. Since photodegradation is a major route of degradation for fipronil, its dissipation is expected to be dependent on physical components of the water (i.e. sediment loading) which affect sunlight penetration. The maximum fipronil concentration for acute (peak concentration) and chronic (56–day average) based on the Tier 1 GENEEC surface water modeling is shown in the table 6 of this preamble:

TABLE 6.—SURFACE WATER CONCENTRATIONS FOR FIPRONIL AND ITS METABOLITES BASED ON GENEEC MODELING

	Corn		Rice	
	Acute Peak Estimated Environmental Concentration (EEC)	Chronic 56–day EEC	Acute Peak EEC (ppb)	Chronic 56–day EEC (ppb)
Fipronil	2.05	0.78	1.45	0.40
MB46136	0.168	0.062	0.061	0.004
MB45950	0.039	0.019	0.1296	0.013
Total	2.257	0.861	1.6406	0.417

TABLE 7.—SURFACE WATER CONCENTRATIONS FOR PHOTODEGRADATE MB46513 BASED ON GENEEC MODELING

	Corn		Rice	
	Acute Peak EEC	Chronic 56–day EEC	Acute Peak EEC (ppb)	Chronic 56–day EEC (ppb)
Photodegradate MB46513	0.014	0.009	0.359	0.066

iii. *Drinking water risk (acute and chronic).* To calculate the Drinking Water Level of Concern (DWLOC) for acute exposure relative to an acute toxicity endpoint, the acute dietary food exposure (from the DRES analysis) was subtracted from acute RfD to obtain the acute exposure to fipronil (plus MB45950 and MB46136) in drinking water. To calculate the DWLOC for chronic (non-cancer, cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the chronic RfD to obtain the acceptable chronic (non-cancer) exposure to fipronil, MB45950, and MB46136 in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures.

a. *Acute risk.* EPA has calculated DWLOCs for acute exposure to fipronil, MB45950, MB46136, and MB46513 in surface and ground water for the U.S. population and children (1–6 yrs). They are 810 and 220 ppb, respectively.

b. *Chronic risk.* For chronic (non-cancer) exposure to fipronil (plus MB45950 and MB46136) in surface and ground water, the drinking water levels of concern are 6.67 and 1.77 ppb for U.S. population and children (1–6 years old), respectively.

c. *Maximum and Average concentrations.* Estimated maximum concentrations of fipronil, MB45950, MB46136, and MB46513 in surface and ground water are 2.271 and 0.05662 ppb (with 0.00026 ppb from MB46513 included), respectively. The estimated average concentration of fipronil, MB45950, and MB46136 in surface water is 0.861 ppb. Chronic concentrations in ground water are not expected to be higher than the acute concentrations. For the purposes of the screening-level assessment, the maximum and average concentrations in

ground water are not believed to vary significantly.

The maximum estimated concentrations of fipronil, MB45950, and MB46136 in surface and ground water are less than EPA's levels of concern for fipronil, MB45950, and MB46136 in drinking water as a contribution to acute aggregate exposure.

The estimated average concentrations of fipronil, MB45950, and MB46136 in surface and ground water are less than EPA's levels of concern for fipronil, MB45950, and MB46136 in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account the present uses and uses proposed in this action, EPA concludes with reasonable certainty that residues of fipronil, MB45950, and MB46136 in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

d. *MB46513 (chronic only).* For chronic (non-cancer) exposure to MB46513 in surface and ground water, the drinking water levels of concern are 0.69 and 0.19 ppb for U.S. population, children (non-nursing infants, < 1 year old), respectively. To calculate the DWLOC for chronic (non-cancer, cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the RfD to obtain the acceptable chronic (non-cancer) exposure to MB46513 in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures.

Estimated maximum concentrations of MB46513 in ground water is 0.00026 ppb. The estimated average concentration of MB46513 in surface water is 0.009 ppb. Chronic concentrations in ground water are not expected to be higher than the acute concentrations. For the purposes of the screening-level assessment, the maximum and average concentrations in ground water are not believed to vary significantly. The estimated average concentrations of MB46513 in surface and ground water are less than EPA's levels of concern for MB46513 in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account the present uses and uses proposed in this action, EPA concludes with reasonable certainty that residues of MB46513 in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

3. *From non-dietary exposure.* The residential uses of fipronil include the use of ant and cockroach bait traps ranging from 0.01 to 0.05 percent active ingredient. In addition, three fipronil products are registered to control fleas and ticks on dogs and cats. These products are applied to the fur of the animal as a ready-to-use pump spray or as a ready-to-use, pour-on, spot treatment made along the back of the animal between the shoulder blades.

i. *Ant and roach baits.* Exposure from the use of fipronil in self contained bait stations is expected to result in low exposures since there is no contact with the pesticide.

ii. *Pet care.* For purposes of setting a tolerance, an aggregate short-term and intermediate-term systemic (oral) and dermal exposure risk assessment which includes the pet care products is not appropriate due to differences in the toxicity endpoints observed between the oral (neurotoxicity and alterations in clinical chemistry and thyroid parameters) and dermal (decreases in body-weight gain and food consumption) routes. Further, though fipronil is currently registered for residential uses, no chronic residential exposure is anticipated.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Fipronil is structurally similar to other members of the pyrazole class of pesticides (i.e., tebufenpyrad, pyrazolynate, benzofenap, etc.). Further, other pesticides may have common toxicity endpoints with fipronil.

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether fipronil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fipronil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fipronil has a common mechanism of toxicity with other substances.

5. *Endocrine disruption.* EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect...''. The Agency is currently working with interested stakeholders, including other government agencies, public interest groups, industry, and research scientists in developing a screening and testing program and a priority setting scheme to implement this program. Congress has allowed 3 years from the passage of FQPA (August 3, 1999) to implement this program. At that time, EPA may require further testing of this active

ingredient and end use products for endocrine disrupter effects.

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute aggregate exposure and risk*. Using refined exposure assumptions (anticipated residues for blended commodities), a high-end exposure estimate (food only) was calculated for these subgroups: females 13+ years, for the general U.S. population, infants (< 1 year), children (1–6 years), and males 13+. These risk estimates are the same as those displayed in table 2 of this preamble.

The maximum estimated concentrations of fipronil in surface and ground water are less than EPA's levels of concern for fipronil in drinking water as a contribution to acute aggregate exposure.

2. *Short- and intermediate-term aggregate exposure and risk*. An aggregate systemic (oral) and dermal exposure risk assessment is not appropriate due to differences in the toxicity endpoints observed between the oral (neurotoxicity and alterations in clinical chemistry and thyroid parameters) and dermal (decreases in body-weight gain and food consumption) routes.

3. *Chronic aggregate exposure and risk*. Chronic dietary exposure estimates for fipronil, MB46136, MB45950, and MB46513 utilized anticipated residues and a projected market share and are thus highly refined. For the U.S. population, 6.5% of the RfD is occupied by dietary (food) exposure. Though fipronil is currently registered for residential uses, no chronic residential exposure is anticipated. The estimated average concentrations of fipronil in surface and ground water are less than EPA's levels of concern for fipronil in drinking water as a contribution to chronic aggregate exposure.

4. *Aggregate cancer risk for U.S. population*. For fipronil plus MB46136 and MB45950, EPA finds that the dietary risk concerns due to long-term consumption of fipronil residues are adequately addressed by the DRES chronic exposure analysis using the RfD. For MB46513, EPA finds that the dietary risk concerns due to long-term consumption of MB46513 residues are adequately addressed by the DRES chronic exposure analysis using the RfD.

5. *Safety finding*. Based on Unit II.C. of this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to fipronil.

F. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*—i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of fipronil, EPA considered data from developmental toxicity studies in the rat and rabbit, a two-generation reproduction study in the rat, and a developmental neurotoxicity study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. Growth, survival and general toxicity are evaluated for two generations of offspring. Developmental Neurotoxicity studies are designed to evaluate adverse effects on the nervous system of the developing organism resulting from pesticide exposure of the pregnant and nursing mother during several critical stages of prenatal and postnatal development.

Section 408 of the FFDCA provides that EPA shall apply an additional 10-fold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Data on Susceptibility*—a. *Neurotoxicity*. Fipronil has demonstrated neurotoxicity in the acute and subchronic rat neurotoxicity studies as well as in the rat chronic/oncogenicity and chronic dog studies.

b. *Developmental toxicity*. There are acceptable rat and rabbit developmental toxicity studies with fipronil. There is no evidence of developmental toxicity in either study. EPA also considered a developmental study conducted for MB46513. In that study, pregnant rats received oral administration of MB46513 (99.2%). For maternal toxicity, the NOEL was 1.0 mg/kg/day and the LOEL was 2.5 mg/kg/day based on an increase in clinical signs of toxicity (hair loss) and on reduced body-weight gain, food consumption, and food efficiency. For developmental toxicity, the NOEL was 1.0 mg/kg/day and the LOEL was 2.5 mg/kg/day based on a slight increase in fetal and litter incidence of reduced ossification of several bones (hyoid, 5th/6th sternebrae, 1st thoracic vertebral body, pubic bone, and one or two metatarsi). Most of the reduced ossification is weak evidence of a developmental effect. Although the minor decrement in fetal weight at 2.5 mg/kg/day has questionable biological relevance, the decrement is supported by the delayed ossification.

c. *Reproductive toxicity*. There is an acceptable two-generation reproduction study in the rat with fipronil. Toxicity to the offspring (clinical signs of toxicity, decreased litter size, decreased body weights, decreased pre- and postnatal survival, and delays in physical development.) occurred only at levels where there was maternal toxicity (including maternal mortality).

d. *Developmental neurotoxicity*. In an acceptable study with fipronil, developmental neurotoxicity (behavioral changes and decreased absolute brain weights) was seen only at levels where there was maternal toxicity (decreased body weight, body-weight gain and food consumption). However, developmental toxicity (including marginal but statistically significant decrease in group mean pup weights during lactation, and significant increase in time of preputial separation in males) was seen at levels below levels of maternal toxicity.

e. *Adequacy of data*. An acceptable two-generation reproduction study in rats and acceptable prenatal developmental toxicity studies in rats and rabbits have been submitted to the Agency, meeting basic data requirements, as defined for a food-use chemical. In addition, an acceptable developmental neurotoxicity study was conducted with fipronil and reviewed by the Agency. Further, EPA has a developmental toxicity study for MB46513. Where specific data on MB46513 are not available, the toxicity of the photodegradate can be reliably estimated by comparing the fipronil and MB46513 data bases and taking into consideration the PAF. Therefore, additional data on MB46513 are not required at this time. There are no data

gaps for the assessment of the effects of fipronil on developing animals following in utero and/or early postnatal exposure.

f. *Determination of susceptibility*. Although there is no evidence of enhanced pre or post natal susceptibility in infants and children in the developmental and reproduction studies for fipronil and MB46513, the developmental neurotoxicity study for fipronil identified a developmental NOEL (0.05 mg/kg/day) which is less than the maternal NOEL of 0.9 mg/kg/day indicating an apparent susceptibility issue. However, EPA determined that the evidence regarding susceptibility was not convincing due to the equivocal nature of the findings. Of principal importance were the following conclusions:

(1) The effects observed in the offspring at the LOEL of 0.9 mg/kg/day, although statistically significant, were marginal and appeared to define a threshold response level for this study.

(2) The body weight findings of this study are not supported by results of the two-generation reproduction study in rats at similar treatment levels.

EPA concluded that the apparent increased susceptibility in the developmental neurotoxicity study was not supported by the overall weight-of-the-evidence (including no evidence for increased susceptibility in the developmental and reproduction studies) from the fipronil data base.

iii. *Determination of the FQPA safety factor*. There is a complete toxicity data base for fipronil and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures. Further, as discussed in Unit II.F.1.f of this preamble, EPA has concluded that the studies do not show that there is an increased susceptibility for developmental effects. Accordingly, EPA believes reliable data are available to remove the additional 10-fold safety factor for the protection of infants and children.

2. *Acute risk*. The total dietary (food only) percents of the acute RfD for these population subgroups females 13+ years, for the general U.S. population, infants (< 1 year), children (1–6 years), and males 13+ ranged from 6–12%. This calculation was based on an acute neurotoxicity study NOEL in rats of 2.5 mg/kg/day for fipronil and 2.0 mg/kg/day for MB46513. Despite the potential for exposure to fipronil in drinking water, EPA does not expect the acute aggregate exposure to exceed EPA's level of concern. The small percent of the acute dietary RfD calculated for females 13+ years old provides assurance that there is a reasonable certainty of no harm for both females 13+ years and the pre-natal development of infants.

3. *Chronic risk*. EPA has concluded that the percentage of the RfD that will be utilized by chronic dietary (food only) exposure to residues of fipronil ranges from 5.1% for nursing infants less than 1 year old, up to 16.7% for non-nursing infants less than 1 year old. Despite the potential for exposure to fipronil in drinking water, EPA does not expect the chronic aggregate exposure to exceed 100% of the RfD. There are uses of fipronil that result in residential exposure, but is not expected to result in chronic exposure. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from acute, short- and intermediate-term, or chronic aggregate exposure to fipronil residues. That data call-in [will] require such data to be submitted every 5 years as long as the tolerances remain in force.

III. Other Considerations

A. Metabolism In Plants and Animals

1. Rhone Poulenc AG, Inc. has submitted data from a study investigating the metabolism of fipronil in rice. The qualitative nature of the residue in rice is adequately understood based on this metabolism study. Fipronil was detected in all rice commodities. MB46513 was also detected in all commodities. MB45950 and MB46136, among other metabolites, were also identified. EPA determined that the fipronil residues of concern for the tolerance expression and dietary risk assessment in plants animals are the parent and its metabolites MB46136 and MB45950 and photodegradate MB46513. The Agency, therefore, has determined that the residues of concern for the proposed tolerances are fipronil, MB45950, MB46136, and MB46513.

2. Residues in eggs, meat, milk, and poultry. Rice bran, grain, hulls, and straws are animal feed items.

i. *Fipronil*. The maximum theoretical dietary burden of fipronil to beef and dairy cattle, based on the required tolerances of 0.04 ppm for rice and 0.10 ppm for rice straw, is 0.04 ppm. The maximum theoretical dietary burden of fipronil to poultry, based on the proposed tolerances of 0.04 ppm for rice and 0.10 ppm for rice straw, is 0.04 ppm. Acceptable cow and poultry feeding studies were submitted and reviewed in conjunction with the pesticide petition for corn. Based on these studies, the Agency has already established appropriate tolerance levels for fipronil residues in/on animal commodities.

ii. *MB46513*. Based on low potential for residues in eggs, meat, and milk, EPA will not require animal feeding studies to be conducted with MB46513.

B. Analytical Enforcement Methodology

1. *Plants*. In conjunction with the cotton petition, gas chromatography/electron capture detector (GC/ECD) method EC–95–303 has been proposed for enforcement of tolerances for residues of fipronil and its metabolites MB45950, MB46136, and photodegradate MB46513, and RPA200766 in/on plant commodities. The GC methods used for the analyses of samples collected from the rice crop field trials and processing study analyze for each compound separately and are adequate for collection of residue data. Adequate method validation and concurrent method recovery have been submitted for these methods. These methods are similar to the GC method proposed for cottonseed which has undergone a successful pesticide method validation (PMV). The registrant has been notified that all directions pertaining to RPA200766 should also be removed as this metabolite has been determined to not be of regulatory concern.

2. *Animals*. A method for the determination of residues of fipronil, MB45950, and MB46136 in animal commodities was previously reviewed in conjunction with a petition for corn and animal raw agricultural commodities (RACs), and has undergone a successful PMV.

3. *Multiresidue methods*. A report on multiresidue testing of fipronil, MB45950, and MB46136 has been received and forwarded to the Food and Drug Administration (FDA). Acceptable recoveries of fipronil, MB45950, and MB46136 were obtained in corn grain. A report on multiresidue testing of MB46513 has been received and forwarded to FDA. Acceptable recoveries of MB46513 were obtained in corn forage and cottonseed.

C. Magnitude of Residues

1. *Plants*. The submitted data indicate that the combined residues of fipronil, MB45950, MB46136, and MB46513 will not exceed the proposed tolerance for rice straw (0.10 ppm), or the proposed tolerance for rice grain (0.04 ppm) in/on samples harvested at maturity following either a preplant incorporated (PPI) broadcast application of the 80% water dispersable granular (WDG) formulation or seed treatment with a 10% liquid formulation at about 0.05 lb active ingredient (ai)/acre (A) (1 x the proposed maximum rate).

Based on the highest residue value obtained from samples harvested following the proposed PPI or seed treatments at the proposed maximum use rate, the proposed tolerance level of 0.10 ppm for rice straw is appropriate. No residues of fipronil or MB46136, MB45950, or MB46513 were detected in rice grain, so the proposed tolerance level for rice grain at the combined limits of quantitation for fipronil, MB46136, MB45950, and MB46513 (0.04 ppm) is appropriate.

2. *Processed food/feed*. Rhone Poulenc AG, Inc. submitted data depicting the potential for concentration of fipronil residues in the processed commodities of rice. The submitted rice processing data are adequate. The data indicate that total residues of fipronil, MB45950, MB46136, and MB46513, and RPA200766 are less than the limit of quantitation (LOQ) (0.01 ppm) in/on rice grain harvested at maturity following PPI broadcast application of the 80% Because treatment at 5–6 x the label application rate did not result in quantifiable levels of fipronil residues of concern in rice grain, all further requirements for the processing study are waived, and no tolerances are required for the processed commodities of rice. As a result of this use, residues of fipronil are not expected to exceed the proposed or existing tolerances.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican MRLs established for fipronil in/on rice RACs. Therefore, no compatibility problems exist.

E. Rotational Crop Restrictions

An acceptable confined rotational crop study with grain, grain sorghum, lettuce, radishes, and wheat was submitted and reviewed in conjunction with the corn petition.

The rotational crop restrictions specified on the labels (1 month for leafy vegetables, 5 months for root crops, and 12 months for small grains and all other crops) are supported by the results of the confined rotational crop study.

IV. Conclusion

Therefore, the tolerances established at 40 CFR 180.517 are amended to include combined residues of the insecticide fipronil, MB46136, MB45950, and MB46513 in or on rice grain at 0.04 ppm and rice straw at 0.10 ppm.

V. Objections and Hearing Requests.

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 15, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33. If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record

EPA has established a record for this rulemaking under docket control number OPP–300612 (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall ı2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in **ADDRESSES** at the beginning of this document.

VII. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16,

1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 2, 1998.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.517 by revising the introductory text of paragraph (a) and adding the following entries to the table in paragraph (a) to read as follows:

§ 180.517 Fipronil; tolerances for residues.

(a) *General.* Therefore, tolerances are established for combined residues of the insecticide fipronil (5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)-(trifluoromethyl)sulfinyl]-1H-pyrazole-3-carbonitrile) and its metabolites 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(trifluoromethyl) sulfonyl]-1H-pyrazole-3-carbonitrile and 5-amino-1-[2,6-dichloro-4-(trifluoromethyl) phenyl]-4-[(trifluoromethyl)thio]-1H-pyrazole-3-carbonitrile and its photodegradate 5-amino-1-(2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1R,S)-(trifluoromethyl)]-1H-pyrazole-3-carbonitrile in or on the following items at the levels specified:

Commodity	Parts per million (ppm)
* * *	* *
Rice grain	0.04
Rice straw	0.10

* * * * *

[FR Doc. 98–18987 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300681; FRL–6016–7]

RIN 2070–AB78

Pseudomonas Fluorescens Strain PRA-25; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a temporary exemption from the requirement of a tolerance for residues of the microbial pest control agent *pseudomonas fluorescens* strain PRA-25 on peas, snap beans, sweet corn, supersweet corn when applied/used on vegetable seeds in the planter box immediately before planting to reduce seed rot and damping-off disease cause by *Pythium spp.* and root rot caused by *Aphanomyces euteiches*. Good Bugs, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104-170) requesting the temporary/time-limited tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *pseudomonas fluorescens* strain PRA-25. The tolerance will expire on July 31, 2001.

DATES: This regulation is effective July 17, 1998. Objections and requests for hearings must be received by EPA on or before September 15, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300681], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees) and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300681], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP-300681]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Linda A. Hollis, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401

M St., SW, Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. , 9th fl., CM #2 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308-8733, e-mail: hollis.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 26, 1997 (62 FR 8735) (FRL–5589–1), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a(e) announcing the filing of a pesticide tolerance petition (PP 7G4803) Good Bugs, Inc. P.O. Box 939, New Glarus, WI 53574. This notice included a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the FQPA of 1996. The petition requested that 40 CFR part 180 be amended by establishing a temporary/time-limited tolerance for residues of *pseudomonas fluorescens* strain PRA-25.

There were no comments received in response to the notice of filing The data submitted in the petition and all other relevant material have been evaluated.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...'' EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide us in residential settings.

II. Toxicological Profile

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

All available information indicates that there is a reasonable certainty that no harm will result from residues of *pseudomonas fluorescens* strain PRA-25 on the treated vegetables because of the ubiquitous nature of this bacterium commonly associated with roots, stems, leaves and bolossoms of a tremendous variety of plants, soil, freshwater, raw and refrigerated milk, meat, fish and cheese and readily isolated from foodstuff and its low toxicity to humans. The toxicological data submitted with this petition demonstrate a lack of human health issues and fully support a temporary exemption from the requirement of a tolererance for *psuedomonas fluorescens* strain PRA-25.

1. *Acute Mammalian Toxicity/ Pathogenicity/Infectivity Testing*- no acute toxicity/pathogenicity effects were observed when rats were given a maximum dose of >1.75 x 10^8 cfu.

2. *Nontarget Organism Testing of Microbial Pest Control Agent* - waivers were submitted for all data requirements for nontarget avian, freshwater fish and aquatic inveterbrate, insects and honeybees. No additional nontarget Tier I studies required for intended MPCA use as a pre-plant seed treatment.

3. *Acute Oral Limit Toxicity*- no acute toxicity was observed when rats were administered an acute oral dose of 1.75 x 10^8 cfu.

III. Aggregate Exposures

In examining aggregate exposure, section 408 of the FFDCA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

Food. *Pseudomonas fluorescens* strain PRA-25 is a ubiquitous bacterium that is commonly associated with soil, water, plant roots and leaves, meat, fish, and dairy products. Therefore, no aditional exposure to food or drinking water is anticipated by using *psuedomonas fluorescens* strain PRA-25.

B. Other Non-Occupational Exposure

Non-dietary exposure such as lawn care, topical insect repellents, etc. is not anticipated since this microbial pesticide does not have these uses. Occupational exposure will be mitigated sthrough the use of proper personal protective equipment

IV. Cumulative Exposure to Substances with Common Mechanisms of Toxicity

Pseudomonas fluorescens strain PRA-25 does not exhibit a particular mechanixm of toxicity in common with other agents, therefore, cumulative effects with any other substance are not considered.

V. Determination of Safety for U.S. Population, Infants and Children

For the U.S. population, including infants and children, *pseudomonas fluorescens* strain PRA-25, EPA concludes that there is reasonable certainty that no harm will result from aggregate exposure to the U.S. population, including infants and children, to residues of *psuedomonas fluorescens* starin PRA-25. This includes all anticipated dietary exposures and all other exposures for which there is reliable information. The Agency has arrive at this conclusion because as discussed above, no toxicity to mammals has been observed for *pseudomonas fluorescens* strain PRA-25 and under reasonable foreseeable cirucumstances it does not pose a risk. Thus, a temporary tolerance for *pseudomonas fluorescens* strain PRA-25 is not necessary to ensure the saftey of consumers. Therefore, 40 CFR part 180 is amended as set forth below.

FFDCA section 408 provides that EPA shall apply an additional ten-fold margin of exposure (MOE)(safety) for infants and children in the case of threshold effects to account for pre-and post natal toxicity and the completeness of the database, unless EPA determines that a different MOE will be safe for infants and children. MOEs are often referred to as uncertainty (safety) factors. In this microbial agency is practically non-toxic to mammals, including infancts and children, and, thus, there are no threshold effects; therefore, EPA has not used a MOE approach to assess the safety of *pseudomonas fluorescens* strain PRA-25. As a result, EPA concludes that this temporary exemption will be safe without use of an additional margin of safety.

VI. Other Considerations

A. Endocrine Disruptors

The Agency has no information to suggest the *pseudomonas fluorescens* strain PRA-25 will have an effect on the immune and endocrine systems. The Agency is not requiring information on the endocrine effects of this biological pesticide at this time; Congress has allowed 3 years after August 3, 1996, for the Agency to implement a screening program with respect to endocrine effects.

B. Analytical Method(s)

The Agency proposes to establish a temporary exemption from the requirement of a tolerance without any numerical limitation; therefore, the Agency has concluded that an analytical method is not required for enforcement purposes for *pseudomonas fluorescens* strain PRA-25.

VII. Objections and Hearing Requests

The new section 408(g) of the FFDCA provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d)and as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 15, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the hearing clerk, at the address given under the **ADDRESSES** section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the hearing clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Record and Electronic Submissions

A record has been established for this rulemaking under docket control number [OPP–300681]. A public version of this record, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing request, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the Virginia address in **ADDRESSES** at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub.L. 104-4). Nor does it require and prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629), February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). In additions, since tolerance exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 8,1998.

Stephen L. Johnson,

Deputy Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1200 is added to subpart D to read as follows:

§ 180.1200 Pseudomonas fluorescens strain PRA-25; temporary exemption from the requirement of a tolerance.

A temporary exemption from the requirement of a tolerance is established for residues of the microbial pesticide, *pseudomonas fluorescens* strain PRA-25 when used on peas, snap beans and sweet corn and will expire July 31, 2001.

[FR Doc. 98–18986 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL–6118–1]

Underground Storage Tank Program: Approved State Program for Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions (42 U.S.C. 6991d and 6991e). This rule codifies in part 282 the prior approval of Nevada's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: The regulation is effective September 15, 1998, unless EPA publishes a prior **Federal Register** document withdrawing this immediate final rule. All comments on the codification of Nevada's underground storage tank program must be received by the close of business on August 17, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register**, as of September 15, 1998, in accordance with 5 U.S.C. 552 (a).

ADDRESSES: Comments may be mailed to the U.S. EPA Office of Underground Storage Tanks (WST–8), Waste Management Division, U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105–3901. Comments received by EPA may be inspected in the public docket, located in the Office of Underground Storage Tanks, at the above address, from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

Copies of Nevada's underground storage tank program may be obtained from the Nevada State Office Library, Board Room, 100 Stewart Street, Carson City, Nevada, 89710; the U.S. EPA Region 9 Library, 13th Floor, 75 Hawthorne Street, San Francisco, California, 94105–3901; and the U.S. EPA Underground Storage Tank docket office and the U.S. EPA Office of Underground Storage Tanks, both located at 401 M. Street SW, Washington, D.C., 20460.

FOR FURTHER INFORMATION CONTACT: John Thayer, Nevada Program Manager, Office of Underground Storage Tanks (WST–8), U.S.EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105–3901, Phone: (415) 744–2092.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency (EPA) to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. On December 24, 1992, EPA published a **Federal Register** notice announcing its tentative decision to grant approval to Nevada. (See 57 FR 248,61376, December 24, 1992.) Approval was effective on March 30, 1993.

EPA codifies its approval of state programs in Part 282 of Title 40, Code of Federal Regulations (CFR) and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Nevada underground storage tank program. This codification reflects the state program in effect at the time EPA granted Nevada approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Nevada program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Nevada program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Nevada, the status of federally approved requirements of the Nevada program will be readily discernible. Only those provisions of the Nevada underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Nevada's underground storage tank program, EPA has added section 282.78 to Title 40 of the Code of Federal Regulation. Section 282.78 incorporates by reference for enforcement purposes the state's statutes and regulations. Section 282.78 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal

inspection authorities, and federal procedures, rather than the state authorized analogues to these provisions. Therefore, the approved Nevada enforcement authorities will not be incorporated by reference. Section 282.78 lists those approved Nevada authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's underground storage tank program are not part of the federally approved state program. These non-approved provisions are not part of the RCRA Subtitle I program because they are ''broader in scope'' than Subtitle I of RCRA. (See 40 CFR 281.12(a)(3)(ii).) As a result, state provisions, which are ''broader in scope'' than the federal program, are not incorporated by reference for purposes of enforcement in part 282. Section 282.78 of the codification simply lists for reference and clarity the Nevada statutory and regulatory provisions, which are ''broader in scope'' than the federal program and which are not, therefore, part of the approved program being codified today. ''Broader in scope'' provisions cannot be enforced by EPA; the state, however, will continue to enforce such provisions.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of certain regulatory actions on state, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with federal mandates, as defined by the UMRA, that may result in expenditures to state, local, and tribal governments, or to the private sector, of $100 million or more in the aggregate in any one year. The section 202 and 205 requirements do not apply to today's action, because it is not a ''federal mandate'' and because it does not impose annual costs of $100 million or more.

Today's rule contains no federal mandates for state, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any state, local or tribal governments or the private sector, because it merely makes federally enforceable existing requirements with which regulated entities must already comply under state law. Second, the Act also generally excludes from the definition of a ''federal mandate'' duties that arise from participation in a voluntary federal program. The requirements being codified today are the result of Nevada's voluntary participation in accordance with RCRA Subtitle I.

Even if today's rule did contain a federal mandate, this rule will not result in annual expenditures of $100 million or more in the aggregate for state, local, and/or tribal governments, or the private sector, because today's action merely codifies an existing state program that EPA previously approved. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may own and/or operate USTs, this codification incorporates into the Code of Federal Regulations Nevada's requirements which have already been approved by EPA under 40 CFR Part 281 and, thus, small governments are not subject to any additional significant or unique requirements by virtue of this codification.

Certification Under the Regulatory Flexibility Act

EPA has determined that this codification will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the state requirements authorized by EPA under 40 CFR Part 281. EPA's codification does not impose any additional burdens on these small entities. This is because EPA's codification would simply result in an administrative change, rather than a change in the substantive requirements imposed on small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this codification will not have a significant economic impact on a substantial number of small entities. This codification incorporates Nevada's requirements, which have been approved by EPA under 40 CFR Part 281, into the Code of Federal Regulations. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each house of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States 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).

Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is ''economically significant'' as defined under Executive Order 12866, and that EPA determines that the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The Agency has determined that the final rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and does not address environmental health and safety risks. As such, the final rule is not subject to the requirements of Executive Order 13045.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects In 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: May 25, 1998.

Felicia Marcus,

Regional Administrator, Region 9.

For the reasons set forth in the preamble, 40 CFR Part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991(c), 6991(d), and 6991(e).

Subpart B—Approved State Programs

2. Subpart B is amended by adding § 282.78 to read as follows:

§ 282.78 Nevada State—Administered Program.

(a) The State of Nevada is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The state's program, as administered by the Nevada Division of Environmental Protection was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Nevada program on December 24, 1992 and it was effective March 30, 1993.

(b) Nevada has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Nevada must revise its approved program to adopt new changes to the federal Subtitle I program, which makes it more stringent in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Nevada obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) Nevada has final approval for the following elements submitted to EPA in Nevada's program application for final approval and approved by EPA on December 24, 1992. Copies may be obtained from the Nevada State Office Library, Board Room, 100 Stewart Street, Carson City, Nevada 89710.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42. U.S.C. 6991 *et seq.*

(A) Nevada Statutory Requirements Applicable to the Underground Storage Tank Program, 1992.

(B) Nevada Regulatory Requirements Applicable to the Underground Storage Tank Program, 1992.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: Nevada Revised Statutes 459 Underground Storage Tank Program (1992) Sections 459.826, 459.830, 459.832, 459.834, 459.844, 459.846, 459.848, 459.850, 459.852, 459.854, and 459.856.

(B) The regulatory provisions include: none.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes: none.

(2) *Statement of legal authority.* (i) ''Attorney General's Statement of Final Approval,'' signed by the Attorney General of Nevada on December 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Nevada to EPA, dated December 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the original application of October 1, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application in October 1992, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 9 and the Nevada Division of Environmental Protection, signed by the EPA Regional Administrator on December 17, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to Part 282 is amended by adding in alphabetical order ''Nevada'' and its listing.

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Nevada

(a) The statutory provisions include:

(1) Nevada Revised Statute Chapter 459, Underground Storage Tank Program (1992), Nevada Revised Statue 590, Petroleum Fund (1991).

(2) Nevada Revised Statute Chapter 459, Underground Storage Tank Program (1992):

Section 459.810 ''Operator'' defined.
Section 459.814 ''Person'' defined.
Section 459.816 ''Regulated Substance'' defined.
Section 459.818 ''Release'' defined.
Section 459.820 ''Storage Tanks'' defined.
Section 459.822 Department designated as state agency for regulation of storage tanks.
Section 459.828 Owner or operator of storage tank to provide department with certain information.
Section 459.838 Fund for the management of storage tanks: Creation: Sources: Claims.
Section 459.840 Fund for the management of storage tanks: Use; reimbursement; recovery by attorney general.

(3) Nevada Revised Statue 590, Petroleum Fund (1991):

Section 590.700 Definitions.
Section 590.710 ''Board'' defined.
Section 590.720 ''Department'' defined.
Section 590.725 ''Diesel fuel of grade number 1'' defined.
Section 590.726 ''Diesel fuel of grade number 2'' defined.
Section 590.730 ''Discharge'' defined.
Section 590.740 ''Division'' defined.
Section 590.750 ''Fund'' defined.
Section 590.760 ''Heating oil'' defined.
Section 590.765 ''Motor vehicle fuel'' defined.
Section 590.770 ''Operator'' defined.
Section 590.780 ''Person'' defined.
Section 590.790 ''Petroleum'' defined.
Section 590.800 ''Storage tank'' defined.
Section 590.810 Legislative findings.
Section 590.820 Board to review claims: Creation; members; chairman; administrative Assistance; compensation of members.
Section 590.830 Fund for cleaning up discharges of petroleum: Creation;

administration by division; claims; interest.
Section 590.840 Collection of fee for certain fuels and heating coil; exempt products; payment of expenses of department.
Section 590.850 Registration of storage tanks: Collection of annual fee; exempt tanks; liability for noncompliance.
Section 590.860 Balance in fund to determine collection of fees by department.
Section 590.870 Report of discharge from tank required; division to clean up discharge; expectation; test of tank required for coverage.
Section 590.880 Allocation of costs resulting from discharge from certain storage tanks for heating oil.
Section 590.890 Allocation of costs resulting from discharge from other storage tanks.
Section 590.900 Liability for costs to clean up discharge caused by willful or wanton misconduct, gross negligence or violation of statute or regulation.
Section 590.910 Pro rata reduction required, if balance in fund insufficient for full payment.
Section 590.920 Tanks exempted from provisions of Sections 590.850 to 590.910 inclusive; optional coverage of exempted tank.

(4) Nevada Civil Procedure, Rule 24 (1971):
Nevada Civil Procedure, Rule 24 .

(b) The regulatory provisions includes:

(1) Nevada Administrative Code 459, UST Program (1990):

Section 459.9929 ''Storage Tank'' defined.
Section 459.993 Compliance with federal regulations.
Section 459.995 Financial responsibility of owners and operators.
Section 459.996 Releases: Reporting.

(2) Nevada Administrative Code 590, Petroleum Fund (1991):
Section 590.720 Adoption by reference of provisions of Code of Federal Regulations.

(3) Nevada Administrative Code, Reportable Quantities (1989):
Section 445.240 Notice required.

[FR Doc. 98–19133 Filed 7–16–98; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 980402084–8166–02; I.D. 032398B]

RIN 0648–AJ51

Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery off Alaska; Amendment 3

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 3 to the Fishery Management Plan for the Scallop Fishery off Alaska (FMP), which delegates to the State of Alaska (State) the authority to manage all aspects of the scallop fishery, except limited access. This final rule repeals all Federal regulations governing the scallop fishery off Alaska, except for the scallop vessel moratorium program. This action is necessary to eliminate duplicative regulations and management programs at the State and Federal levels and is intended to further the goals and objectives of the FMP.

DATES: Effective July 14, 1998.

ADDRESSES: Copies of Amendment 3 and the Environmental Assessment/ Regulatory Impact Review (EA/RIR) prepared for Amendment 3 are available from the NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228 or kent.lind@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS and the State of Alaska manage the scallop fishery off Alaska pursuant to the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Federal regulations governing the scallop fishery appear at 50 CFR parts 600 and 679. State regulations governing the scallop fishery appear in the Alaska Administrative Code (AAC) at 5 AAC Chapter 38--Miscellaneous Shellfish.

The Council submitted Amendment 3 for Secretarial review on March 26, 1998, and a Notice of Availability of the amendment was published March 31, 1998 (63 FR 15376), with comments on the FMP amendment invited through June 1, 1998. NMFS published a proposed rule to implement Amendment 3 on April 16, 1998 (63 FR 18863), with comments on the proposed rule invited until June 1. No comments were received on the FMP amendment or the proposed rule by the end of the comment periods.

Based on a review of the FMP amendment, proposed rule, EA/RIR, and applicable State laws, the Administrator, Alaska Region, NMFS, determined that Amendment 3 is necessary for the conservation and management of the scallop fishery off Alaska and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

Management Background and Need for Action

The history of the scallop fishery off Alaska and the events leading up to the development of the joint State-Federal management regime under Amendment 1 to the FMP are discussed in detail in the proposed rule (63 FR 18863, April 16, 1998) and in the EA/RIR prepared for this action (see ADDRESSES). Amendment 1 established a joint State-Federal management regime under which NMFS implemented Federal scallop regulations that duplicate most State scallop regulations, including definitions of scallop registration areas and districts, scallop fishing seasons, closed waters, gear restrictions, efficiency limits, crab bycatch limits, scallop catch limits, inseason adjustments, and observer coverage requirements. This joint State-Federal management regime was designed as a temporary measure to prevent unregulated fishing in Federal waters until changes in the Magnuson-Stevens Act would enable the Council to delegate management of the fishery to the State.

While the joint State-Federal management regime established under Amendment 1 has enabled NMFS to reopen the Exclusive Economic Zone to fishing for scallops, it has proven to be cumbersome in practice. Every management action, including inseason openings and closures, must be coordinated so that State and Federal actions are simultaneously effective. NMFS must draft and publish in the **Federal Register** inseason actions that duplicate every State inseason scallop action. State scallop managers are now constrained in their ability to implement management decisions rapidly because they must coordinate each action with NMFS and provide sufficient lead-time for publication of the action in the **Federal Register**.

The only purpose of maintaining duplicate regulations at the State and Federal level is to prevent unregulated fishing by vessels not registered under the laws of the State. The State-Federal management regime established under Amendment 1 is no longer necessary to prevent unregulated fishing for scallops in Federal waters because the Sustainable Fisheries Act of 1996, which amended the Magnuson-Stevens Act, now provides authority for the Council to delegate to the State management responsibility for the scallop fishery in Federal waters off Alaska. The statutory requirements for delegation of fisheries management

authority to a state were presented in the preamble to the proposed rule (63 FR 18863, April 16, 1998).

Repeal of Federal Scallop Regulations Under Amendment 3

Amendment 3, adopted by the Council by a 10 to 1 vote, delegates to the State the authority to manage all aspects of the scallop fishery in Federal waters, except limited access, including the authority to regulate vessels not registered under the laws of the State. Section 306(a)(3)(B) of the Magnuson-Stevens Act, as amended, requires that such a delegation of authority be made through an FMP amendment and be approved by a three-quarters majority vote of the Council.

This final rule to implement Amendment 3 removes subpart F of 50 CFR part 679. Subpart F contains all the Federal regulations specific to the scallop fishery off Alaska, with the exception of the scallop vessel moratorium program, which is set out under permit requirements at June 26, 1998, § 679.4(g). Amendment 3 and this final rule change the Federal scallop vessel moratorium program established under Amendment 2 to the FMP by simplifying scallop management in the Federal waters off Alaska through the elimination of unnecessary duplication of regulations at the State and Federal levels.

This final rule also makes minor changes to § 679.1(h) to accommodate the delegation of management authority to the State and adds a definition of Scallop Registration Area H (Cook Inlet) to the definitions at § 679.2 because this definition, previously set out in subpart F, is necessary for the scallop vessel moratorium program.

Changes Made From the Proposed Rule

This final rule removes definitions for ''Dive'' and ''Scallop dredge'' under the definition of ''Authorized fishing gear'' at § 679.2 because these definitions are no longer required. In addition, the final rule eliminates cross references to scallop regulations at § 679.7(h) and § 679.22(g). No additional changes were made from the proposed rule.

Classification

This action repeals duplicative Federal regulations that serve no Federal management purpose and have the potential to confuse the regulated community. In addition, this action does not significantly revise management measures for the regulated community in a manner that would require time to plan or prepare for those revisions. For these reasons, the Assistant Administrator for Fisheries, NOAA, finds that good cause exists to waive the 30-day delayed effectiveness period for this action under 5 U.S.C. 553(d).

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

The Administrator, Alaska Region, NMFS determined that fishing activities conducted under this rule would not affect endangered and threatened species listed or critical habitat designated pursuant to the Endangered Species Act in any manner not considered in prior consultations on the scallop fisheries off Alaska.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 13, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.1, paragraph (h) is revised to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(h) *Fishery Management Plan for the Scallop Fishery off Alaska.* (1) Regulations in this part govern commercial fishing for scallops in the Federal waters off Alaska by vessels of the United States (see subpart A of this part).

(2) State of Alaska laws and regulations that are consistent with the FMP and with the regulations in this part apply to vessels of the United States that are fishing for scallops in the Federal waters off Alaska.

* * * * *

3. In § 679.2, the definition of ''Authorized fishing gear,'' is amended by revising the introductory paragraph, removing the paragraphs (1) *Dive* and (11) *Scallop dredge*, and renumbering paragraphs (2) through (10) and (12) through (14) as paragraphs (1) through (12), respectively; and a definition ''Scallop Registration Area H Cook Inlet'' is added, in alphabetical order, to read as follows:

§ 679.2 Definitions.

* * * * *

Authorized fishing gear means, fixed gear, hook-and-line, jig, longline, longline pot, nonpelagic trawl, nontrawl, pelagic trawl, pot-and-line, trawl, hand troll gear, and power troll gear:

* * * * *

Scallop Registration Area H (Cook Inlet) means all Federal waters of the GOA west of the longitude of Cape Fairfield (148°50' W. long.) and north of the latitude of Cape Douglas (58°52' N. lat.).

* * * * *

4. In § 679.3, paragraph (g) is added to read as follows:

§ 679.3 Relation to other laws.

* * * * *

(g) *Scallops.* Additional regulations governing conservation and management of scallops off Alaska are contained in Alaska Statutes A.S. 16 and Alaska Administrative Code at 5 AAC Chapter 38.

§ 679.7 [Amended]

5. In § 679.7, paragraph (h) is removed and paragraph (i) is redesignated as paragraph (h).

§ 679.22 [Amended]

6. In § 679.22, paragraph (g) is removed and reserved.

§§ 679.60–679.65 (Subpart F) [Removed]

7. Subpart F, consisting of §§ 679.60–679.65, is removed.

[FR Doc. 98–19115 Filed 7–14–98; 1:45 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 137
Friday, July 17, 1998

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

Rural Utilities Service

7 CFR Part 1753

RIN 0572–AB34

Telecommunications System Construction Policies and Procedures

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) proposes to revise its regulations on telecommunications system construction policies and procedures. This revision includes empowering the telecommunications borrowers by reducing oversight by RUS with respect to preparation of plans and specifications, bid approvals, and final document approvals. In addition to reducing the requirements for facilities construction, RUS will also make technical corrections and clarifications, and minor technical changes.

DATES: Public comments must be received by RUS or bear a postmark or equivalent, no later than September 15, 1998.

ADDRESSES: Written comments should be sent to Orren E. Cameron, III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 2835–S, STOP 1598, Washington, DC 20250–1598. Telephone: (202) 720–8663. RUS requires a signed original and three copies of all comments (7 CFR 1700.4). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 2835–S, Stop 1598, Washington, DC 20250–1598. Telephone (202) 720–8663. E-Mail: ecameron@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in Sec. 3. of the Executive Order.

Regulatory Flexibility Act Certification

RUS had determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS telecommunications program provides loans to borrowers at interest rates and terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining federal financing, receive economic benefits which exceed any direct economic costs associated with complying with RUS regulations and requirements. Moreover, this action liberalizes certain contract requirements by changing contract limits thereby reducing RUS oversight requirements and further offsetting economic costs.

Information Collection and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) RUS is requesting comments on the information collection incorporated in this proposed rule.

Comments on this information collection must be received by September 15, 1998.

Comments are invited in: (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; (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 of other forms of information technology.

For further information contact Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1598, Washington, DC 20250–1598. Telephone: (202) 720–8663. FAX: (202) 720–4099. E-Mail: ecameron@rus.usda.gov.

Title: Telecommunications Standards/Specifications Acceptance, Telecommunications Field Trials, and Telecommunications Contract Forms.

OMB Number: 0572–0059.

Type of Request: Amendment.

Abstract: The Rural Utilities Service (RUS) proposes to revise its regulations on telecommunications system construction policies and procedures. This revision includes empowering the telecommunications borrowers by reducing oversight by RUS with respect to preparation of plans and specifications, bid approvals, and final document approvals and transferring those approval authorities to borrowers and their consulting engineers. In addition, this revision updates the regulation to include headquarters building financing which was reauthorized under certain loan programs in the Rural Electrification Loan Restructuring Act of 1993, and clarifies the manner in which RUS waives postloan engineering and construction requirements.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Business or other for profit and non-profit institutions.

Estimated Number of Respondents: 212.

Estimated Number of Responses per Respondents: 25.

Estimated Total Annual Burden on Respondents: 3,356 hours.

Copies of this information collection can be obtained from Dawn Wolfgang, Program Development and Regulatory Analysis, Rural Utilities Service. Telephone: (202) 720–0812.

Send comments regarding this information collection requirement to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, USDA, Rural Utilities Service, 1400 Independence Ave., SW., Room 4034,

Stop 1522, Washington, DC 20250–1522.

Comments are best assured of having full effect if OMB receives them within 30 days of publication in the **Federal Register**. All comments will become a matter of public record.

National Environmental Policy Act Certification

RUS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.851, Rural Telephone Loans and Loan Guarantees, and No. 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402–9325.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Proposed Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS and RTB loans and loan guarantees to governmental and nongovernmental entities from coverage under this Order.

Unfunded Mandates

This rule contains no Federal Mandates (under the regulatory provision of Title II of the Unfunded Mandate Reform Act) for State, local, and tribal governments of the private sector. Thus today's rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandate Reform Act.

Background

RUS has undertaken a strategic review of all policies and procedures covering its preloan and postloan requirements of borrowers. This review was part of RUS efforts in governmental streamlining and empowering the recipients of the loans provided under the Rural Electrification Act (RE Act) of 1936, (U.S.C. 901 *et seq.*), as amended. As a result of this review, several procedures and policies were deemed no longer necessary. Other policies and procedures have been streamlined and RUS proposes to place more responsibility with the borrowers to insure a more cost effective review process while maintaining the required loan security. In view of this increased reliance upon borrowers and their consultants, certain provisions have been added to reduce the government's vulnerability to conflicts of interest. Provisions have also been added for construction of headquarters facilities pursuant to the Rural Electrification Loan Restructuring Act of 1993 (107 Stat. 1356).

RUS further proposes to make technical corrections to final regulations which were reorganized and redesignated on September 27, 1990, at 55 FR 39393. In particular, certain regulations contained cross references which inadvertently had not been updated. This action is simply a correction to these regulations with no change to substance. Changes to regulatory text are merely to update cross references. As currently published, the final regulations may prove to be misleading.

List of Subjects in 7 CFR Part 1753

Communications equipment, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunication, Telephone.

For reasons set forth in the preamble, 7 CFR chapter XVII is amended as follows:

PART 1753—TELECOMMUNICATION SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

1. The authority citation for part 1753 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 1921 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. In § 1753.1, paragraph (a) is revised to read as follows:

§ 1753.1 General

(a) The standard RUS Telecommunications Loan Documents contain provisions regarding procurement of materials and equipment and construction of telecommunications facilities by telecommunications borrowers. This part 1753 implements certain of the provisions by setting forth requirements and procedures. Borrowers shall follow these requirements and procedures whenever using loan funds to purchase materials and equipment or perform construction, unless they have received the Administrator's written approval to do otherwise.

* * * * *

3. In § 1753.2, a new definition of ''loan purposes'' is added, and the definitions of ''major construction'', ''minor construction'' and ''modernization plan'' are revised, to read as follows:

§ 1753.2 Definitions.

* * * * *

Loan purposes—The high level objectives of the loan which is funding the construction. These purposes are first stated in the characteristics letter described in 7 CFR 1737.80, which is sent to the applicant to offer a loan after RUS has completed its preloan studies. These purposes are restated in the loan contract.

Major construction—A telecommunications plant project estimated to cost more than $250,000, including all labor and materials.

Minor construction—A telecommunications plant project estimated to cost $250,000 or less, including all labor and materials.

* * * * *

Modernization plan—A State plan, which has been approved by RUS, for improving the telecommunications network of those Telecommunications Providers covered by the plan. A Modernization Plan must conform to the provisions of 7 CFR part 1751, subpart B.

* * * * *

4. The first word of § 1753.3(a) is revised from ''prior'' to read ''advance''.

5. In § 1753.5, paragraph (b)(1) is revised, paragraph (b)(2) is redesignated (b)(3), and a new paragraph (b)(2) is added, to read as follows:

§ 1753.5 Methods of major construction.

* * * * *

(b) Contract construction. (1) RUS approval of the borrower's award of the contract is not required if the contractor is selected through sealed competitive bidding, the bid amount is $500,000 or less and the contractor is not a company or organization affiliated with the borrower. This does not relieve the borrower of the requirements for bidding or bid evaluation set forth in this part.

(2) RUS approval of the borrower's award of the contract is required for all other competitively-bid and for negotiated major construction contracts.

* * * * *

6. In § 1753.6, paragraph (e) is added to read as follows:

§1753.6 Standards, specifications, and general requirements.

* * * * *

(e) All software, software systems, and firmware financed with loan funds must

be year 2000 compliant, as defined in 7 CFR 1732.22(e).

7. In § 1753.7, paragraphs (c) and (e) are revised to read as follows:

§ 1753.7 Plans and specifications (P&S).

* * * * *

(c) The appropriate standards and specifications listed in 7 CFR part 1755 shall be included in the P&S. When RUS has not prepared standards and specifications, the borrower shall use general engineering requirements and specifications prepared by the borrower's engineer. The specifications prepared by the borrower's engineer and based on general engineering requirements shall be subject to review and approval by RUS for all major construction, including major projects which would be exempted from RUS approval under § 1753.7(e).

* * * * *

(e) RUS approval of the P&S is required for construction that is estimated to cost over $500,000 or 25% of the total loan, whichever is less, and for all building construction. P&S for all other construction are exempt from RUS review and approval except that, at the time of contract approval, RUS will examine the plans and specifications for conformity with the loan purposes and to determine that they comply with other requirements of this part.

* * * * *

8. In § 1753.8, paragraphs (a)(1), (a)(11)(i), (a)(11)(ii) introductory text, (a)(11)(iii) introductory text, and (a)(12)(i) are revised, and a new paragraph (a)(11)(iv) is added, to read as follows:

§ 1753.8 Contract construction procedures.

(a) Sealed, competitive bidding—(1) *Bid opening date:* The borrower is responsible for scheduling the bid opening date. If RUS review of the P&S is required by § 1753.7, the borrower shall wait until approval has been received before setting the date. In setting the date, sufficient time should be allowed for the bidders to examine the project site and prepare their bids. The borrower shall notify the GFR of the bid date and invite the GFR to attend.

* * * * *

(11) *Award of contract:* (i) The borrower shall obtain from the engineer the determination of the lowest responsive bid, a tabulation of all bids and the engineer's recommendation for award of the contract. Contract award is subject to RUS approval if either the cost of the project is over $500,000 or the contract is with an organization affiliated with the borrower. Contract award of all other projects is not subject to RUS approval.

(ii) If an award is made, the borrower shall award the contract to the lowest responsive bidder. The borrower may award the contract immediately upon determination of the lowest responsive bidder if the following conditions are met:

* * * * *

(iii) If RUS approval of the award of contract is required under this paragraph (a)(11), the borrower shall send to RUS for consideration of approval of the award:

* * * * *

(iv) If RUS approval of the award of contract is not required under this paragraph (a)(11), the borrower shall keep a file available for inspection by RUS. The file shall be kept for at least two years and shall include:

(A) One copy of all received bids.

(B) The engineer's recommendation and tabulation of all bids including ''Buy American'' evaluations, if any, and all other evaluations required by law.

(C) Evidence of acceptance of the low bid by the borrower, such as a copy of the board resolution certified by the Secretary of the board.

(12) *Execution of contract:* (i) The borrower shall submit to RUS three original counterparts of the contract executed by the contractor and borrower.

* * * * *

9. In § 1753.11, paragraphs (a)(3), (b) and (d) are revised to read as follows:

§ 1753.11 Contract amendments.

(a) * * *

(3) The amendment causes an unbonded contract to require a contractor's performance bond. This would occur when a contract that is executed in an amount below that requiring a performance bond in 7 CFR part 1788, subpart C, is amended to an amount above that amount.

(b) Advance RUS approval to execute other contract amendments is not required. These amendments may be submitted to RUS at any time prior to closeout. If a borrower wishes to receive an advance of funds based on an amended contract amount (i.e., amendments that increase a contract by less than 20%), the borrower may initiate an increase in the amount approved for advance by submitting three copies of the amendment to RUS for approval.

* * * * *

(d) Upon execution of any amendment that causes the amended contract amount to exceed the original contract amount by 20% or more, three copies of the amendment shall be submitted to RUS for approval.

* * * * *

10. In § 1753.15, paragraphs (a)(1), (a)(4)(i) and (a)(4)(ii) are revised, and a new paragraph (a)(2) is added, paragraphs (a)(2) through (a)(5) are redesignated (a)(3) through (a)(6) respectively, and a new paragraph (a)(2) is added, to read as follows:

§ 1753.15 General.

(a)(1) The standard RUS Loan Documents contain provisions regarding engineering and architectural services performed by or for RUS telephone borrowers. This part implements certain of the provisions by setting forth the requirements and procedures to be followed by borrowers in selecting architects and engineers and obtaining architectural and engineering services by contract or by force account.

(2) Borrowers shall obtain architectural and engineering services only from persons or firms which are not affiliated with, and have not represented, a contractor, vendor or manufacturer who may provide labor, materials, or equipment to the borrower under any current loan.

* * * * *

(5)(i) For major construction, services provided by architects and engineers not on the borrower's staff must be provided under Form 220, Architectural Service Contract, or Form 217, Postloan Engineering Service Contract—Telecommunications. These contracts require RUS approval.

(ii) For minor construction, borrowers may use the contracts in paragraph (a)(5)(i) of this section for postloan architectural or engineering services or any other form of contract, such as Form 245, Engineering Service Contract, Special Services-Telephone. RUS approval of contracts for postloan architectural or engineering services associated with minor construction, except for buildings covered in paragraph (a)(6) of this section, is not required.

* * * * *

11. In § 1753.16, paragraphs (b)(1) through (b)(4) are revised, to read as follows:

§ 1753.16 Architectural services.

(a) * * *

(b)(1) The borrower shall use Form 220 when contracting for architectural services for major construction, except that the borrower may use either Form 220 or Form 217 if the building is an unattended central office building.

(2) The borrower and the architect negotiate the fees for services under the Form 220 contract.

(3) Reasonable modifications or additions to the terms and provisions in Form 220 may be made, subject to RUS approval, to obtain the specific services needed for a building.

(4)(i) Three copies of Form 220, executed by the borrower and the architect, shall be sent to the GFR to be forwarded to RUS for approval. RUS will review the contract terms and conditions. RUS will not approve the contract if, in RUS's judgement:

(A) Unacceptable modifications have been made to the contract form.

(B) The contract will not accomplish loan purposes.

(C) The architectural service fees are unreasonable.

(D) The contract presents unacceptable loan security risk to RUS.

(ii) If RUS approves the contract, RUS will send one copy to the architect and one copy to the borrower.

* * * * *

12. In § 1753.17(b)(1)(ii)(D), remove ''(See 7 CFR part 1758)''. Paragraph (b)(1)(ii)(E), is added, and paragraphs (c)(1)(i)(C) and (c)(2)(i)(A) are revised, to read as follows:

§ 1753.17 Engineering services.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(E) The consulting engineering firm is affiliated with or has represented a contractor, vendor, or manufacturer who may provide labor, materials, or equipment to the borrower under any current loan.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(C) The names, qualifications, and responsibilities of other principal employees who will be associated with providing the engineering services.

* * * * *

(2) * * *

(i) * * *

(A) A copy of the employee's qualifications and experience record, unless previously submitted. RUS requires a minimum of four years of construction and inspection experience. The employee cannot be engaged in the actual construction.

* * * * *

13. A new § 1753.18 is added to read as follows:

§ 1753.18 Engineer/Architect contract closeout certifications.

A certification of completion and inspection of construction, required elsewhere in this part, signed by the borrower and countersigned in accordance with accepted professional engineering and architectural practice, by the engineer or architect, shall be prepared as evidence of completion of a major construction project. This certification shall make reference to the contract number and contract amount, and shall include the following:

(a) A statement that the construction is complete and was done in accordance with the RUS approved system design or layout or subsequent RUS approved changes.

(b) A statement that the construction was for loan purposes.

(c) A statement that construction used RUS-accepted materials and was in accordance with specifications published by RUS covering the construction which were in effect when the contract was executed, or in the absence of such specifications, that it meets other applicable specifications and standards (specify), and that it meets all applicable national and local code requirements as to strength and safety.

(d) A statement that the construction complies with the ''Buy American'' provision (7 U.S.C. 903 note) of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq).

(e) A statement that all necessary approvals have been obtained from regulatory bodies and other entities with jurisdiction over the project.

(f) A statement that all closeout documents required in this part have been examined and found complete such that the Contractor has fulfilled all obligations under the contract except for warranty coverage.

(g) A statement that the engineer or architect is not affiliated with and does not represent the contractor, vendor, or manufacturer who is a participant in the contract.

14. In § 1753.25, paragraphs (a), (c) and (d) are revised as follows:

§ 1753.25 General

(a) This subpart implements and explains the provisions of the Loan Documents setting forth the requirements and the procedures to be followed by borrowers in constructing headquarters, commercial office, central office, warehouse, and garage buildings with loan funds.

* * * * *

(c) All plans and specifications for buildings to be constructed with loan funds are subject to the approval of RUS. In addition, preliminary plans and specifications for headquarters and commercial office buildings to be constructed with loan funds are subject to RUS approval.

(d) RUS Form 257, Contract to Construct Buildings, shall be used for the construction of all headquarters, commercial office, central office, warehouse, and garage buildings with loan funds. Refer to § 1753.26 for further instructions.

* * * * *

15. In § 1753.26, paragraphs (a) through (d) are redesignated (b) through (e) respectively, redesignated paragraph (b)(1 is revised, and a new paragraph (a) is added, to read as follows:

§ 1753.26 Plans and specifications (P&S).

(a) For headquarters and commercial office buildings only, the borrower shall prepare preliminary P&S showing the floor plan and general architectural details of the building to be constructed using loan funds. In particular, the preliminary P&S shall address the requirements of § 1753.25(f) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*). These P&S shall be submitted to the GFR and are subject to RUS approval.

(b)* * *

(1) RUS Contract Form 257, Contract to Construct Buildings, completed to the extent explained in paragraph (c) of this section.

* * * * *

16. In § 1753.30, paragraphs (b), (c)(2), (c)(3) and (d) are revised to read as follows:

§ 1753.30 Closeout procedures.

* * * * *

(b) *RUS Form 257 Contract*. (1) Whenever changes were made in the plans and specifications which did not require immediate submission to RUS of an amendment under § 1753.11, a final contract amendment showing the changes shall be prepared.

(2) Upon completion of the project, the borrower shall obtain certifications from the licensed architect or engineer that the project and all required documentation are satisfactory and complete. The requirements for this certification are set forth in § 1753.18.

(3) The engineer's or architect's contract closeout certification and the final amendment shall be submitted to RUS as a basis for the final advance of funds for the contract.

(c) * * *

(2) Complete, with the assistance of its architect or engineer, the documents listed in the following table that are required for the closeout of force account construction.

DOCUMENTS REQUIRED TO CLOSEOUT CONSTRUCTION OF BUILDINGS

RUS form No.	Description	Use with		No. of copies prepared by		Distribution	
		Contract	Force account.	Contractor	Architect/ engineer	Borrower	Contractor
238	Construction or Equipment Contract Amendment (If not previously submitted, send to RUS for approval.).	X	(3)			(to RUS)	
181	Certificate of Completion (Contract Construction) [1].	X			2	1	1
231	Certificate of Contractor	X		1		1	
224	Waiver and Release of Lien from each Supplier.	X		1		1	
213	Certificate (Buy American)	X		1		1	
None [2]	''As Built'' Plans and Specifications	X	X		1	1	
None	Guarantees, Warranties, Bonds, Operating or Maintenance Instructions, et certera.	X		1		1	
None	Architect/Engineer seismic safety certification.	X	X		2	1	1

[1] Cost of materials and services furnished by borrower are not to be included in Total Cost on RUS Form 181.
[2] When only minor changes were made during construction, two copies of a statement to that effect from the Architect will be accepted instead of the ''as built'' Plans and Specifications.

(3) Make distribution of the completed documents as indicated in the table in this section.

(d) After all required RUS approvals are obtained, final payment is made in accordance with Article III of RUS Form 257 once the borrower has received the architect's or engineer's certifications regarding satisfactory completion of the project.

17. In § 1753.37, paragraph (c) is revised to read as follows:

§ 1753.37 Plans and specifications (P&S).

* * * * *

(c) RUS review of P&S is required for construction estimated to cost over $500,000 total or estimated to cost more than 25% of the total loan.

(1) If RUS review is required, the borrower shall submit one copy of the P&S to the GFR for RUS review.

(2) RUS will review the P&S and notify the borrower in writing of approval or disapproval.

18. In § 1753.38, paragraphs (a)(1)(i), (a)(1)(v), (a)(2)(i), (a)(2)(v), (b)(1), (b)(3), (b)(5), (e)(2), and (e)(3) are revised, to read as follows:

§ 1753.38 Procurement procedures.

(a) * * *

(1) *Solicitation of bids.* (i) After RUS approval of the specifications and equipment requirements (required only for projects exceeding $500,000 or 25% of the loan), the borrower shall send ''Notice and Instructions to Bidders'' to suppliers with central office equipment included in the current Informational Publication (I.P.) 300–4, ''List of Materials Acceptable for Use on Telecommunications Systems of RUS Borrowers.'' I.P. 300–4 is a subscription item available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954. This ''Notice'' may also be sent to suppliers of non-domestic equipment currently accepted by RUS as meeting RUS technical standards. The ''Notice'' may also be sent to suppliers of central office equipment accepted for field trial.

* * * * *

(v) At the request of an invited supplier, the borrower shall provide two copies of the P&S.

(2) *Technical sessions.* (i) The borrower shall schedule individual technical sessions by the suppliers, notify each supplier of its scheduled date and time, notify the GFR of all scheduled dates and times, and request the following be available at the technical session:

* * * * *

(v) After evaluation of the technical proposals and RUS approval of the changes to the P&S (required only for projects that exceed $500,000 or 25% of the loan), sealed bids shall be solicited from only those bidders whose technical proposals meet the P&S requirements. When fewer than three bidders are adjudged qualified by the borrower to bid, RUS approval must be obtained to proceed. Generally, RUS will grant such approval only if the borrower can demonstrate to the satisfaction of RUS that a good faith effort was made to obtain at least three competitive bids. This would be demonstrated if all suppliers currently listed in I.P. 300–4 were invited to submit technical proposals. This could not be demonstrated if a listed supplier of central office equipment was not invited.

* * * * *

(b) * * *

(1) After RUS approval of the P&S and equipment requirements (required only for contracts expected to exceed $500,000 or 25% of the loan), the borrower shall send two complete copies of the approved P&S to the supplier and request that a proposal be submitted.

* * * * *

(3) If the contract is expected to exceed $500,000 or 25% of the loan, changes in the P&S resulting from the technical session shall be subject to RUS review and approval.

* * * * *

(5) The borrower shall obtain an award recommendation from its engineer.

* * * * *

(e) * * *

(2) The borrower shall prepare a plan containing an outline of the proposed use of the equipment, the proposal from the supplier and an estimate of the installation cost. If the total cost exceeds $500,000, RUS approval of the award of contract is required. The borrower shall in this case submit its plan and the supplier's proposal to the GFR. If the cost does not exceed $500,000, the borrower's award of contract is not subject to RUS approval.

(3) If RUS approval was required in paragraph (e)(2) of this section, upon RUS approval the purchase may be made using RUS Contract Form 525 or 545, or when applicable, the procedures contained in subpart I of this part.

* * * * *

19. In § 1753.39, paragraphs (a), (e)(1), (e)(2), (f), (f)(1)(ii)(A), (f)(1)(iii), (f)(1)(iv) and (g) are revised, paragraph (e)(3) is deleted, and paragraph (h) is added, to read as follows:

§ 1753.39 Closeout documents.

* * * * *

(a) *Contract amendments.* Amendments that must be submitted to RUS for approval, as required by § 1753.11, shall be submitted promptly. All other amendments may be submitted to RUS with the engineer's contract closeout certification.

* * * * *

(e) * * *

(1) Obtain from the engineer a certification of partial closeout.

(2) Submit one copy of the summary to RUS with an FRS.

(f) Final contract closeout procedure. The documents required for the final closeout of the central office equipment contracts, RUS Contract Forms 525 and 545, are listed in the following table, which also indicates the number of copies and their distribution. The procedure to be followed is outlined as follows:

DOCUMENTS REQUIRED TO CLOSEOUT CENTRAL OFFICE EQUIPMENT CONTRACT

RUS form No.	Description	Use with		Prepared by		Distribution	
		RUS form 525	RUS form 545	Contractor	Engineer	Borrower	Contractor
238	Construction or Equipment Contract Amendment (If not previously submitted, send to RUS for approval).	X	X		(3)	(to RUS)	
754	Certificate of Completion and Certificate of Contractor and Indemnity Agreement (if submitted, Form 744 is not required).	X		3	3	2	1
517	Results of Acceptance Tests (Prepare and distribute copies immediately upon completion of the acceptance tests of each central office).	X			2	1	1
752a	Certificate of Completion—Not Including Installation.		X		2	1	1
224	Waiver and Release of Lien (from each supplier).	X		1		1	
231	Certificate of Contractor	X		1		1	
213	Certificate (Buy American)	X	X	1		1	
None	Switching Diagram, as installed	X	X	2		2	
None	Set of Drawings (Each set to include all the drawings required under the Specification, RUS Form 522).	X	X	2		2	

(1) * * *

(ii) * * *

(A) Prepare and assemble the documents listed in the table in this section, Documents Required to Close Out Central Office Equipment Contracts.

* * * * *

(iii) Make the documents listed in the table available for GFR review on the date of final inspection.

(iv) Distribute the documents as indicated in the table, including submission to the GFR of all documents required by RUS.

* * * * *

(g) Once RUS approval has been obtained for any required amendments, the borrower shall obtain certifications from the licensed engineer that the project and all required documentation are satisfactory and complete. The requirements for the final contract certification are set forth in § 1753.18.

(h) Once these certifications have been received, final payment shall be made according to the payment terms of the contract. Copies of the certifications shall be submitted with the FRS, requesting the remaining funds on the contract.

20. In § 1753.46, paragraphs (c)(2) and (c)(3) are revised to read as follows:

§ 1753.46 General.

* * * * *

(c) * * *

(2) Contract Form 515, which is for less than $250,000, may, at the borrower's option, be negotiated. See § 1753.48(b).

(3) Form 773 may be used for minor outside plant projects which are not competitively bid because they cannot be designed and staked at the time of contract execution. Projects of this nature include routine line extensions and placement of subscriber drops. See Subpart I of this part.

21. In § 1753.47, paragraph (c) is revised to read as follows:

§ 1753.47 Plans and specifications (P&S).

* * * * *

(c) *Submission of plans and specifications to RUS.* (1) If the project does not exceed $500,000 or 25% of the loan, the borrower shall furnish the GFR one set of the P&S and one copy of the ''Checklist for Review of Plans and Specifications,'' RUS Form 553, signed by the engineer. The borrower may then proceed with procurement in accordance with § 1753.48.

(2) If the project exceeds $500,000 or 25% of the loan, RUS approval of the P&S is required. Two (2) sets of the P&S and one copy of the ''Check List for Review and Plans and Specifications,'' RUS Form 553, signed by the borrower's engineer, shall be furnished to the GFR. RUS will return one set to the borrower upon notice of approval. The borrower may then proceed with procurement in accordance with § 1753.48.

22. In § 1753.48, paragraphs (a)(4) and (b)(1) are revised to read as follows:

§ 1753.48 Procurement procedures.

(a) * * *

(4) *Bid openings.* (i) Bid openings and award of the contract shall be conducted in accordance with § 1753.5(b)(1) and § 1753.8(a).

(ii) If § 1753.8 requires RUS approval of award of the bid, the borrower shall submit to RUS two copies of the

assembly unit sections of the apparent lowest responsive bid accepted by the borrower.

(b) *Negotiated procurement.* (1) Competitive bids are not required for outside plant construction that is estimated to cost less than $250,000 labor and materials. If the contract exceeds $500,000 or 25% of the loan, the borrower shall obtain RUS approval of the plans and specifications before it begins negotiating with a contractor.

* * * * *

23. In § 1753.49, paragraphs (b), (c)(2) and (c)(3) are revised, to read as follows:

§ 1753.49 Closeout documents.

* * * * *

(b) *Documents required.* The following table lists the documents required to closeout the Form 515 construction contract.

DOCUMENTS REQUIRED TO CLOSEOUT CONSTRUCTION CONTRACT RUS FORM 515

RUS Form No.	Description	No. of copies prepared by		Distribution	
		Contractor	Engineer	Borrower	Contractor
724	Final Inventory—Certificate of Completion		2	1	1
724a	Final Inventory—Assembly Units		2	1	1
None	Contractor's Bond Extension (Send to RUS when required.)	(3)		(to RUS)	
281	Tabulation of Materials Furnished by Borrower	2		1	1
213	Certificate—''Buy American''	1		1	
None	Listing of Construction Change Orders		1	1	
224	Waiver and Release of Lien (from each supplier)	1		1	
231	Certificate of Contractor	1		1	
527	Final Statement of Construction		2	1	1
None	Reports on Results of Acceptance Tests		1	1	1
None	Set of Final Staking Sheets		1	1	
None	Tabulation of Staking Sheets		1	1	
None	Correction Summary (legible copy)		1	1	
None	Treated Forest Products Inspection Reports or Certificates of Compliance (prepared by inspection company or supplier).			1	
None	Final Key Map (when applicable)		1	1	
None	Final Central Office Area and Town Maps		1	1	

(c) * * *

(2) *Final inventory documents.* (i) The borrower shall obtain certifications from the licensed engineer that the project and all required documentation are satisfactory and complete. Requirements for these contract closeout certifications are set forth in § 1753.18.

(ii) The borrower shall prepare and distribute the final inventory documents as indicated in the tables in this section. The documents listed for RUS shall be retained by the borrower for inspection by RUS for at least two years from the date of the engineer's contract closeout certification.

STEP-BY-STEP PROCEDURE FOR CLOSEOUT OF CONSTRUCTION CONTRACT RUS FORM 515

Sequence		By	Procedure
Step No.	When		
1	Upon completion of construction.	Borrower's Engineer	Prepares the following: a set of Detail Maps and a set (when applicable) of Key Maps which show in red the work done under the 515 contract; a Tabulation of Staking Sheets; and a tentative Final Inventory, RUS Forms 724 and 724a.
2	After acceptance tests made.	Borrower's Engineer	Forwards letter to the borrower with copies to the GFR stating that the project is ready for final inspection. Schedules inspection date.
3	Upon receipt of letter from Borrower's Engineer.	GFR	Advises borrower whether attending the final inspection will be possible.
4	By inspection date	Borrower's Engineer	Obtains and makes available the following documents: a set of ''as constructed'' detail maps and (when applicable) ''as built'' key maps; a list of construction change orders; the final staking sheets; the tabulation staking sheets; the treated forest products inspection reports or certificates of compliance; the tentative final inventory, RUS Forms 724 and 724a; the tentative tabulation, RUS Form 231(if borrower furnished part of material); and, a report of results of acceptance tests.
5	During inspection	Borrower's Engineer	Issues instructions to contractor covering corrections to be made in construction as a result of inspection.
6	During inspection	Contractor	Corrects construction on basis of instructions from the borrower's engineer. The corrections should proceed closely behind the inspection in order that the borrower's engineer can check the corrections before leaving the system.
7	During inspection	Borrower's Engineer	Inspects and approves corrected construction. Marks inspected areas on the key map, if available, otherwise on the detail maps.
8	Upon completion of inspection.	Borrower's Engineer	Prepares or obtains all the closeout documents listed in Table 3.

STEP-BY-STEP PROCEDURE FOR CLOSEOUT OF CONSTRUCTION CONTRACT RUS FORM 515—Continued

Sequence		By	Procedure
Step No.	When		
9	After signing final inventory.	Borrower	Prepares and submits to RUS the engineer's certifications of completion and a Financial Requirement Statement, RUS Form 481, requesting amount necessary to make final payment due under contract.
10	On receipt of final advance.	Borrower	Promptly forwards check for final payment to contractor.
11	During subsequent loan fund audit review following final payment.	RUS Field Accountant	Examines borrower's construction records for compliance with the construction contract and Subpart F, and examines RUS Form 281 (Tabulation of Materials Furnished by Borrower) if any, for appropriate costs.

(iii) When the total inventory price exceeds the maximum contract by more than 20 percent, an extension to the contractor's bond is required.

(iv) The borrower shall submit the engineer's contract closeout certification with the FRS for the final advance of funds.

(3) Final payment shall be made according to the payment provisions of Article III of RUS Form 515, except that certificates and other documents required to be submitted to or approved by the Administrator shall be submitted to and approved by the Owner.

24. Section 1753.50 is removed and reserved.

25. In § 1753.58, paragraphs (b), (c)(2) and (c)(5) are revised to read as follows:

§ 1753.58 Closeout documents.

* * * * *

(b) *Documents.* The documents required to close the FAP are listed in the following table. The following is a brief description of the closeout documents:

DOCUMENTS REQUIRED TO CLOSEOUT FORCE ACCOUNT OUTSIDE PLANT CONSTRUCTION

RUS Form No.	Description
817, 817a, 817b.	Final Inventory Force Account Construction and Certificate of Engineer. Submit one copy to RUS, if required.[1]
213	Certificate—"Buy American" (as applicable from each supplier).
None	Detail Maps.
None	Key map, if applicable.
None	Staking Sheets.
None	Tabulation of staking sheets.

DOCUMENTS REQUIRED TO CLOSEOUT FORCE ACCOUNT OUTSIDE PLANT CONSTRUCTION—Continued

RUS Form No.	Description
None	Treated Forest Products Inspection Reports or Certificates of Compliance (prepared by inspection company or supplier).

[1] RUS Forms 817, 817a, and 817b are to be submitted to the GFR only if required in paragraph (c)(5) of this section. Otherwise, the final inventory documents are to be assembled and retained by the borrower for at least two years.

(c) * * *

(2) The GFR shall be invited to make the final inspection accompanied by the engineer and the borrower.

* * * * *

(5) After inspection, the final inventory documents shall be assembled as indicated in the table in this section. RUS Forms 817, 817a, and 817b are to be submitted to the GFR only if the amount of the closeout exceeds the original force account proposal by 20% or more. Otherwise, the final inventory documents are to be assembled and retained by the borrower for at least two years.

* * * * *

26. In § 1753.68, paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(2)(v), (b)(4)(i), (b)(4)(ii), (c)(2), and (d)(3) are revised to read as follows:

§ 1753.68 Purchasing special equipment.

* * * * *

(b) * * *

(2) *Initial equipment purchase.* (i) The borrower prepares the P&S and, for projects estimated to exceed $500,000 or 25% of the loan, whichever is less, sends two copies to the GFR for approval.

(ii) For projects estimated to exceed $500,000 or 25% of the loan, RUS will either approve the P&S in writing or notify the borrower of any reason for withholding approval.

(iii) For projects estimated to cost less than $500,000 or 25% of the loan, the borrower may proceed with procurement upon completion of the P&S.

(iv) If the borrower has employed full competitive bidding in the selection, a contract may be executed with the successful bidder and the borrower may proceed to paragraph (b)(2)(vi) of this section.

(v) If the borrower did not follow a fully competitive bidding process as described in § 1753.8, the selection, along with a summary of all proposals and an engineer's recommendation, shall be sent to RUS. RUS shall approve the proposal selection in writing or notify the borrower of any reason for withholding approval.

* * * * *

(4) *New system additions.* (i) The borrower prepares the P&S and, if the project is estimated to exceed $500,000 or 25% of the loan, sends two copies to the GFR for approval. The borrower may request RUS approval to negotiate for the purpose of standardization on a system basis prior to preparing the P&S.

(ii) RUS notifies the borrower in writing as to whether the borrower may negotiate for specific equipment. If P&S were required to be submitted to RUS under paragraph (b)(4)(i) of this section, RUS notifies the borrower in writing of P&S approval (or notifies the borrower of any reason for withholding approval).

* * * * *

(c) * * *

(2) The borrower shall prepare any required amendments to the special equipment contract, arrange for the execution by all parties, and submit these amendments to RUS in accordance with § 1753.11(d). RUS Form 238 , Construction or Equipment Contract Amendment, shall be used for this purpose.

* * * * *

(d) * * *

(3) *Closeout documents.* When the acceptance tests have been completed

and all deficiencies have been corrected, the borrower:

(i) Assembles and distributes the documents listed in the following table that are required for the closeout of the special equipment contract. The documents listed for RUS shall be retained by the borrower for inspection by RUS for at least two years from the date of the engineer's contract closeout certification.

DOCUMENTS REQUIRED TO CLOSEOUT SPECIAL EQUIPMENT CONTRACTS RUS FORMS 397 AND 398

RUS Form No.	Description	No. of copies prepared by					
		Form 397		Form 398		Distribution	
		Contractor	Engineer	Contractor	Engineer	Borrower	Contractor
238	Construction or Equipment Contract Amendment (If not previously submitted, send to RUS for approval.).	.....	(3)	.....	(3)	(to RUS)	
396	Certificate of Completion—Special Equipment Contract (Including Installation).	.....	2	.....	.....	1	1
396a	Certificate of Completion—Special Equipment Contract (Not Including Installation).	.....	.....	.....	2	1	1
744	Certificate of Contractor and Indemnity Agreement.	1	.....	.....	.....	1	.....
213	Certificate (Buy American)	1	.....	1	.....	1	.....
None	Report in writing, including all measurements and other information required under Part II of the applicable specifications.	1	.....	.....	1	1	.....
None	Set of maintenance recommendations for all equipment furnished under the contract.	1	.....	1	.....	1	.....

(ii) Obtains certifications from the licensed engineer that the project and all required documentation are satisfactory and complete. Requirements for this contract closeout certification are set forth in § 1753.18.

(iii) Submits copies of the engineer's certifications to RUS with the FRS requesting the remaining funds on the contract.

(iv) Makes final payment in accordance with the payment terms of the contract.

27. In § 1753.76, paragraph (a) is revised to read as follows:

§ 1753.76 General.

(a) This subpart implements and explains the provisions of the Loan Documents setting forth the requirements and procedures to be followed by borrowers for minor construction of telecommunications facilities using RUS loan funds. Terms used in this subpart are defined in § 1753.2.

* * * * *

28. In § 1753.80, paragraph (b) is revised to read as follows:

§ 1753.80 Minor construction procedure.

* * * * *

(b) RUS financing under Form 773 contracts dated in the same calendar year is limited to the following amounts for the following discrete categories of minor construction. The date of the Form 773 contract is the date the Form 773 contract is executed.

(1) For outside plant construction, the limit is $500,000 or ten per cent (10%) of the borrower's previous calendar year's outside plant total construction, whichever is greater.

(2) For central office equipment, the limit is $500,000.

(3) For special equipment and buildings, the limit is $250,000.

* * * * *

29. Appendices A through F are removed.

Dated: July 8, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98–18759 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–15–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150–AF81

Respiratory Protection and Controls To Restrict Internal Exposures

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations regarding the use of respiratory protection and other controls to restrict internal exposure to radioactive material. The proposed amendments are intended to make these regulations more consistent with the philosophy of controlling the sum of internal and external radiation exposure, reflect current guidance on respiratory protection from the American National Standards Institute (ANSI), and make the requirements less prescriptive without reducing worker protection. The proposed amendments would provide greater assurance that worker exposures will be maintained as low as is reasonably achievable (ALARA) and that recent technological advances in respiratory protection equipment and procedures are reflected in NRC regulations and are thus clearly approved for use by licensees.

DATES: Submit comments by September 30, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

The NRC staff specifically requests comment on whether the technical aspects of the rule should be addressed through alternative approaches other than the proposed rule, such as a simple

performance-based rule with a Regulatory Guide endorsing ANSI standards to permit a more rapid regulatory response by the NRC to future technical developments and changes in industry consensus standards.

In addition to comments on this proposed rule, the NRC staff requests specific comments and suggestions regarding the content and scope of a planned revision of NUREG–0041, ''Manual of Respiratory Protection Against Airborne Radioactive Materials.''

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland between 7:30 am and 4:15 pm Federal workdays.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received and the environmental assessment and finding of no significant impact, and NUREG–0041, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

Single copies of the environmental assessment and finding of no significant impact and the regulatory analysis may be obtained from Antoinette Walker, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 415–1282.

Single copies of the draft revision of Regulatory Guide 8.15, ''Acceptable Programs for Respiratory Protection,'' which is related to this rulemaking, may be obtained by writing to: U.S. Nuclear Regulatory Commission, Printing and Graphics Branch, Washington, DC 20555–0001; or by fax at (301) 415–5272.

FOR FURTHER INFORMATION CONTACT: Alan K. Roecklein, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–3883; email AKR@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A major revision of 10 CFR Part 20, ''Standards for Protection Against Radiation,'' was published on May 21, 1991 (56 FR 23360). Although the NRC was aware that certain provisions of Subpart H and Appendix A to Part 20 were out of date and did not reflect new technology in respiratory devices and procedures, minimal changes were made because an ANSI standard was being prepared that was expected to provide state-of-the-art guidance on acceptable respiratory protection devices and procedures. The NRC decided to address further revisions to Subpart H and Appendix A to Part 20 when the ANSI guidance was complete.

In response to public comments on the proposed 10 CFR Part 20, the NRC made several changes to Subpart H in the May 21, 1991, rule to make it consistent with the new philosophy and science underlying the new Part 20. The new Subpart H required that the practice of ALARA apply to the sum of internal and external dose, permitted correction of both high and low initial intake estimates if subsequent, more accurate bioassay measurements gave different results, and clarified that a respiratory protection program consistent with Subpart H is required whenever respirators are used to limit intakes of radioactive material.

After 10 CFR Part 20 was revised, ANSI Z88.2–1992, ''American National Standard for Respiratory Protection'' was approved for publication by the American National Standards Institute. This document provides an authoritative consensus on major elements of an acceptable respiratory protection program, including guidance on respirator selection, training, fit testing, and assigned protection factors (APF). Consistent with the publication of ANSI Z88.2–1992 the NRC is proposing these changes to Subpart H of Part 20 to make the regulations less prescriptive without reducing worker protection.

II. Summary of the Proposed Changes

The Commission is proposing to amend § 20.1003, §§ 20.1701 through 20.1704 in Subpart H, ''Respiratory Protection and Controls to Restrict Internal Exposure in Restricted Areas,'' of 10 CFR Part 20, and Appendix A to Part 20, ''Protection Factors for Respirators''.

In § 20.1003, Definitions, definitions are proposed for Assigned protection factor (APF), Disposable respirator, Fit check, Fit factor and Fit test. These added definitions are needed to add clarity to the proposed regulations at §§ 20.1701 through §§ 20.1705.

In § 20.1701, Use of process or other engineering controls, the word ''decontamination'' would be added to the list of examples of process or engineering controls that should be considered for controlling the concentration of radioactive material in air. The intent is to encourage licensees to consider decontamination, consistent with maintaining total effective dose equivalent (TEDE) ALARA, to reduce resuspension of radioactive material in the work place as a means of controlling internal exposure instead of using respirators.

Section 20.1702 would be revised by adding a footnote (2) to § 20.1702(c) to clarify that if a licensee performs an ALARA analysis to determine whether or not respirators should be used, safety factors other than radiological may be taken into account. A reduction in the TEDE for a worker is not reasonably achievable if an attendant increase in the workers' industrial health and safety risk would exceed the benefit obtained by the reduction in the radiation risk. Regulatory Guide 8.15 (DG–8022) and NUREG–0041 will address in more detail how factors such as heat, discomfort, reduced vision, etc., associated with respirator use, might reduce efficiency or increase stress thereby increasing external dose or health risk. Considerable licensee judgment is necessary in determining an appropriate level of respiratory protection in many cases.

Section 20.1703 states the requirements for licensees who use respiratory protection equipment to limit intake of radioactive material. The use of a respirator is by definition intended to limit intakes of airborne radioactive materials, unless the device is clearly and exclusively used for protection against non-radiological airborne hazards. Whether or not credit is taken for the device in estimating doses, it is the use of the respiratory protection device to limit intake of radioactive material and associated physiological stresses that would activate the requirements of § 20.1703. Thus § 20.1703 can be viewed as defining the minimum respiratory protection program expected of any licensee who assigns or permits the use of respirators.

In § 20.1703(a), the phrase ''pursuant to § 20.1702'' would be deleted. This language has been misinterpreted to mean that an approved respiratory protection program is not needed if respirators are used when concentrations of radioactive material in air are already below values that define an airborne radioactivity area. This is not the case and the proposed § 20.1703 should make it clear that, if a licensee uses respiratory protection equipment

''to limit intakes,'' the provisions of § 20.1703 apply as a minimum.

In § 20.1703(a)(1), (proposed § 20.1703(a)), licensees are permitted to use only respirators that have been tested and certified ''or had certification extended'' by NIOSH. The words ''or had certification extended'' would be deleted because all these extensions have expired and no new extensions will be granted.

In § 20.1703(a)(2), (proposed § 20.1703(b)), licensees are permitted to apply for authorization to use equipment that has not been tested or certified by NIOSH and ''has not had certification extended by NIOSH/MSHA.'' The words ''has not had certification extended by NIOSH/MSHA'' would be deleted because all these extensions have expired and no new extensions will be granted. The words ''to the NRC'' are added to make it clear that applications for authorized use of respiratory equipment are to be submitted to the Commission.

In § 20.1703(a)(3), (proposed § 20.1703(c)), paragraphs (c)(1) through (5) are retained as presently codified with the exception of some minor editing and that paragraph (c)(4) would be reworded to improve clarity, reorder priorities, and bring together in one paragraph all of the elements of the required written procedures. Paragraph (c)(5) would be revised to clarify that the worker's medical evaluation for using non-face sealing respirators occurs prior to first field use rather than prior to first fitting (as required for tight fitting respirators) because fit testing is not needed for these types.

A new § 20.1703(c)(6) would be added to require fit testing prior to first field use of tight fitting, face sealing respirators and periodically thereafter. This proposed change would clarify when and how often fit testing is required. The licensee would specify a frequency of retest in the procedures, not to exceed 3 years. This differs from the ANSI recommendation of annual fit testing. The NRC believes that if a licensee is alert to physiological changes that might affect an individual's ability to wear a respirator safely, annual fit testing is an excessive burden. A requirement to wear properly fitted respirators is currently in the footnotes to Appendix A to Part 20 and would be moved to the body of the rule. Several general programmatic requirements currently found in footnotes to Appendix A to Part 20 would be moved to the text of the rule where they more appropriately belong and to ensure that they are not overlooked by licensees.

The new § 20.1703(c)(6) would also codify existing NRC staff guidance and ANSI recommendations regarding the test ''fit factors'' that must be achieved in order to use the APFs and the frequency of fit testing. Specifically, fit testing with ''fit factors'' ≥10 times the APF would be required for negative pressure devices. A fit factor ≥100 would be required for all tight fitting face pieces used with positive pressure, continuous flow, and pressure-demand devices. This provision is intended to maintain a sufficient margin of safety to accommodate the greater difficulty in maintaining a good ''fit'' under field and work conditions as compared to fit test environments.

The proposed § 20.1703(c)(6) would also require retesting at a frequency not to exceed 3 years. Guidance in the proposed revision of Regulatory Guide 8.15 (DG–8022) on the frequency of fit testing suggests a retest period not to exceed 3 years. Currently, most licensees perform annual fit testing. The proposed 3-year retesting does not agree with the ANSI recommendation for annual retesting. The NRC believes that a 3-year interval between fit tests is adequate to protect workers under normal circumstances, given adequate surveillance of workers for physiological changes. Regulatory Guide 8.15 discusses what constitutes an adequate surveillance program, including being alert to circumstances such as significant weight loss or gain, facial changes, etc., that would suggest more frequent fit testing. Transient workers might require more frequent retesting because continuous monitoring for physiological changes is impracticable.

The current § 20.1703(a)(4), which lists requirements for licensees to issue a written policy statement, would be deleted because the NRC believes that this policy statement is not needed. This change is proposed because all of the elements required to be in the policy statement are already found in Part 20 and in the requirement for licensees to have and implement written procedures (see proposed § 20.1703(c)(4)).

Section 20.1703(a)(6) would become § 20.1703(e) and would be clarified and expanded to emphasize the existing requirements that provisions be made for vision correction, adequate communications, and low-temperature work environments. In order to comply with these requirements, a licensee would need to take into account the effects of restricted vision and communication limitations as well as the effects of adverse environmental conditions on the equipment and the wearer. The NRC considers the inability of the respirator wearer to read postings, operate equipment and/or instrumentation, or properly identify hazards to be an unacceptable degradation of personnel safety.

A requirement for licensees to consider low-temperature work environments when selecting respiratory protection devices would be added to the proposed § 20.1703(e). For example, the moisture from exhaled air when temperatures are below freezing could cause the exhalation valve on negative pressure respirators to freeze in the open position. The open valve would provide a pathway for unfiltered air into the respirator inlet covering without the user being aware of the malfunction. Lens fogging that reduces vision in a full face piece respirator is another problem that can be caused by low temperature.

The reference to skin protection currently found in § 20.1703(a)(6) would be deleted in the proposed § 20.1703(e). The NRC does not consider skin protection an appropriate reason for the use of respirators (with the exception of air supplied suits). Limitation of skin dose is currently dealt with elsewhere in the regulations for example in § 20.1201(a)(2)(ii), skin dose limit. It may be inconsistent with ALARA to use tight fitting respirators solely to prevent facial contamination; other protective measures such as the use of facelets instead of respirators or decontamination should be considered. Facial contamination may result in a less significant dose than that received as a result of respirator use or prior decontamination of the area.

A new § 20.1703(f) would be added to bring a requirement for standby rescue persons, currently found in a footnote in Appendix A to Part 20, into the rule. This new paragraph would retain a requirement for the presence of standby rescue persons whenever one-piece atmosphere-supplying suits, or any other combination of supplied air respirator device and protective equipment are used that are difficult for the wearer to take off unassisted. Standby rescue workers would also need to be in direct communication with such workers, be equipped with appropriate protective clothing and devices, and be immediately available to provide needed assistance in the event that the air supply fails. Without continuous air supply, unconsciousness can occur within seconds.

A new § 20.1703(g) would move a requirement from a footnote in Appendix A to Part 20, into the rule. This section would specify the minimum quality of supplied breathing air, as defined by the Compressed Gas Association (CGA) in their publication G–7.1, ''Commodity Specification for

Air,'' 1989 (ANSI–CGA G–7.1, 1989), that must be provided whenever atmosphere-supplying respirators are used. This change to recognizing the CGA recommendations for air quality was initiated by NIOSH and endorsed by ANSI. The quantity of air supplied, as a function of air pressure or flow rate, would be specified in the NIOSH approval certificate for each particular device and is not addressed in the proposed rule.

A new § 20.1703(h) is added to clarify and move a requirement from the footnotes of Appendix A to Part 20, into the rule. This section prohibits the use of respirators whenever any material or substance might interfere with the seal of the respirator. The intent of this provision is to prevent the presence of facial hair, cosmetics, spectacle earpieces, surgeons caps, and other things from interfering with the respirator seal and/or proper operation of the respirator.

Currently, § 20.1703(b)(1) discusses selection of respiratory protection equipment so that protection factors are adequate to reduce intake. This paragraph permits selection of less protective devices if that would result in optimizing TEDE. The NRC believes that this requirement is redundant with the requirement to be ALARA. These recommendations are being removed and will be discussed in the revised Regulatory Guide 8.15.

The remainder of § 20.1703(b)(1) would become § 20.1703(i) and be revised to incorporate the new ANSI terminology for ''assigned protection factor'' and to retain the provision for changing intake estimates if later, more accurate bioassay measurements show that exposure was greater or less than initially estimated.

Current § 20.1703(b)(2), specifying procedures for applying to the NRC to use higher APFs, is renumbered as § 20.1705.

Current § 20.1703(c) would be removed because it requires licensees to use as emergency devices only respiratory protection equipment that has been specifically certified or had certification extended for emergency use by NIOSH. This approval category no longer exists. Acceptable types of emergency and escape equipment will be discussed in the revisions of Regulatory Guide 8.15 and NUREG–0041. Because only equipment approved by NIOSH or NRC can be used in the respiratory protection program pursuant to § 20.1703(a) and (b), this provision is considered redundant.

Current § 20.1703(d) would be deleted. This section currently requires a licensee to notify in writing the director of the appropriate NRC Regional Office at least 30 days before the date that respiratory protection equipment is first used under the provisions of either current § 20.1703(a) or (b). All licensees who possess radioactive material in a form that requires a respiratory protection program are identified during the license application, amendment, or renewal processes. Their programs would be reviewed during this process. A 30-day notification requirement imposes a needless administrative burden on licensees with no increase in worker health and safety. This proposed change is considered to be a burden reduction.

Section 20.1704(a) would be revised to clarify that ALARA considerations are included in any restrictions imposed by the Commission in addition to those found in §§ 20.1702, 20.1703, and Appendix A to Part 20 on the use of respiratory protection equipment for the purpose of limiting exposures of individuals to airborne radioactive materials.

Appendix A to Part 20—''Protection Factors (PF) for Respirators,'' would be modified extensively. In general, new devices are recognized, APFs are revised to be consistent with current ANSI guidance and technical knowledge, and the footnotes to Appendix A are moved, deleted, revised, or adjusted so that only those necessary to explain the table remain. Footnotes that are instructive or that facilitate implementation of the rule would be moved to Regulatory Guide 8.15. Several footnotes are considered to be redundant in that they reiterate NIOSH certification criteria to be discussed in NUREG–0041 and would be removed. Generic regulatory requirements, previously contained in footnotes in Appendix A to Part 20 would be moved to the codified text of Part 20.

The column headed ''Tested and Certified Equipment,'' would be deleted. The references to Titles 30 and 42 of the CFR currently found in this column apply primarily to respirator manufacturers and are not very useful to NRC licensees. Instruction on how to determine if a respirator is NIOSH approved will be provided in the revision to NUREG–0041.

Current footnote a to Appendix A to Part 20 would be deleted because it is considered to be redundant with air sampling requirements and requirements for estimating possible airborne concentration addressed in the proposed rule at § 20.1703(c)(1) and § 20.1703(i).

Current footnote b, which permits the use of devices only when nothing interferes with the seal of a face piece, would be moved to the codified text at § 20.1703(h).

Current footnote c, which defines the symbols for modes of operation would be revised to fit the new list of respiratory devices in Appendix A to Part 20 consistent with ANSI Z88.2–1992 and become footnote b.

Current footnote d.1 would be removed because the essential information regarding the meaning and use of APF is found in the proposed rule at § 20.1703(i). Further guidance regarding the application and limitation of APFs would be provided in the revisions of Regulatory Guide 8.15 and NUREG–0041.

Current footnote d.2(a) states that APFs are only applicable for trained individuals who are properly fitted and for properly maintained respirators. This footnote is redundant with the current and proposed § 20.1703 and would be removed. Adequate provisions for training, fit-testing, and equipment maintenance are found in the proposed rule at § 20.1703(c)(4).

Current footnote d.2(b) states that APFs are applicable for air-purifying respirators only when high-efficiency particulate filters are used in atmospheres not deficient in oxygen and not containing radioactive gas or vapor respiratory hazards. This statement would be revised in proposed footnote c to say that if using a respirator with an APF greater than 100, a filter with a minimum efficiency of 99.97 percent must be used. Further guidance will be provided in Regulatory Guide 8.15 and NUREG–0041. The definitions of filter types and efficiencies will be discussed in the revisions of Regulatory Guide 8.15 and NUREG–0041.

Current footnote d.2(c) states that APFs cannot be used for sorbents against radioactive gases and/or vapors (e.g., radioiodine). This is no longer an absolute prohibition. A provision would be made in the new proposed footnote d for licensees to apply to the Commission for the use of an APF greater than 1 for sorbent cartridges.

Current footnote d.2(d) restates part of the NIOSH approval criteria for air quality for supplied air respirators and self-contained breathing apparatus. This requirement would be changed to reflect the fact that air quality standards derive from ANSI's recognition of the Compressed Gas Association guidance, and moved to the rule at § 20.1703(g). Air quality is discussed further in Regulatory Guide 8.15 and NUREG–0041.

The current footnote e makes it clear that the APFs for atmosphere-supplying respirators and self-contained breathing

apparatus are not applicable in the case of contaminants that present a skin absorption or submersion hazard. This statement would be retained in footnote d in the proposed Appendix A to Part 20. However, the current exception provided for tritium oxide requires correction in that the effective protection factor cannot exceed 3, rather than 2 as stated. This correction would be made in footnote d of the proposed Appendix A to Part 20. A discussion of the basis for this change will be found in revised NUREG–0041.

Current footnote f observes that canisters and cartridges for air purifying respirators will not be used beyond service-life limitations. This observation restates a NIOSH approval criterion and is more appropriate to guidance than to the regulations. This footnote would be deleted. Service life limitations are addressed in Regulatory Guide 8.15 and NUREG–0041.

The current footnote g addresses four issues. The first limits the use of half-mask face piece air purifying respirators to ''under-chin'' types only. This limitation would be retained as footnote (f) to the proposed new Appendix A to Part 20. The only type of face piece eliminated by this requirement is the so-called ''quarter-mask'' which seals over the bridge of the nose, around the cheeks and between the point of the chin and the lower lip. These devices exhibit erratic face-sealing characteristics, especially when the wearer talks or moves his/her mouth.

The second issue precludes this type of respirator if ambient airborne concentrations can reach instantaneous values greater than 10 times the pertinent values in Table 1, Column 1 of Appendix B to Part 20. Because respirator assignment is now based on TEDE, ALARA, and other consideration, this part of current footnote g would be deleted from the proposed footnote f.

The third issue precludes the use of this type of respirator for protection against plutonium or other high-toxicity materials. Half-mask respirators, if properly fitted, maintained and worn, provide adequate protection if used within the limitations stated in the NIOSH approval and in the rule. The NRC finds no technical or scientific basis for continuing this prohibition in view of current knowledge and proposes to remove it.

Finally this footnote requires that this type mask be tested for fit (user seal check) before each use. This provision would be removed because the proposed § 20.1703(c)(3) would require a user to perform a fit check (e.g., negative pressure check, positive pressure check, irritant smoke check) each time a respirator is used.

Current footnote h provides several conditions on air-flow rates necessary to operate supplied air hoods effectively. Because all of these requirements are elements of the NIOSH approval criteria, they are redundant and would be removed. However, these NIOSH requirements will be discussed in the revision to NUREG–0041.

Current footnote I specifies that appropriate protection factors be determined for atmosphere-supplying suits based on design and permeability to the contaminant under conditions of use. Conditions for the use of these devices are retained in footnote g to the proposed revision of Appendix A to Part 20. Guidance on the use of these devices would be included in the revision to Regulatory Guide 8.15. Current footnote I also requires that a standby rescue person equipped with a respirator or other apparatus appropriate for the potential hazards, and communications equipment be present whenever supplied-air suits are used. This requirement would be deleted from the footnotes to Appendix A to Part 20 and moved to the body of the rule at § 20.1703(f).

Current footnote j states that NIOSH approval schedules are not available for atmosphere-supplying suits. This information and criteria for use of atmosphere supplying suits would be addressed in footnote g to the proposed Appendix A to Part 20. Note that an APF is not listed for these devices. Licensees would be permitted to apply to the Commission for the use of higher APFs in accordance with § 20.1703(b).

Current footnote k permits the full face piece self-contained breathing apparatus (SCBA), when operating in the pressure-demand mode, to be used as an emergency device in unknown concentrations. This provision would be retained in footnote I to the proposed Appendix A to Part 20 and full face piece SCBA operating in positive pressure, recirculating mode is added.

Current footnote l requires quantitative fit testing with a leakage less than 0.02 percent for the use of full face piece, positive pressure, recirculating mode SCBA. This requirement would be removed from the rule to be consistent with ANSI guidance and addressed in the revision to Regulatory Guide 8.15.

Current footnote l also states that perceptible outward leakage of breathing gas from this or any positive pressure SCBA whether open circuit or closed circuit is unacceptable, because service life will be reduced substantially. This provision would be retained in footnote I to the proposed Appendix A to Part 20.

Current footnote l also requires that special training in the use of this type of apparatus be provided to the user. The NRC believes that the training requirement that would be retained at § 20.1703(c)(4) is adequate to assure the training necessary for the use of SCBA devices. This element of footnote l would be removed.

Note 1 to the current Appendix A to Part 20 discusses conditions under which the protection factors in the appendix may be used, warns against assuming that listed devices are effective against chemical or respiratory hazards other than radiological hazards, and states the need to take into account applicable approvals of the U.S. Bureau of Mines/NIOSH when selecting respirators for nonradiological hazards. Note 1 would be retained as footnote (a) to the proposed Appendix A to Part 20 and would be revised to reference Department of Labor (DOL) regulations at 29 CFR 1910. The NRC believes that these conditions are essential to the safe use of APFs and that the DOL regulations are also applicable whenever other than radiological respiratory hazards are present.

Note 2 to the current Appendix A to Part 20 warns that external dose from submersion in high concentrations of radioactive material may result in limitations on occupancy being governed by external dose limits. This note would be retained as the second paragraph of footnote a to the proposed Appendix A to Part 20.

In the title of Appendix A to Part 20, and throughout the proposed rule, the term ''assigned protection factor'' (APF) is used to be consistent with the new ANSI Z88.2–1992 terminology.

Although ANSI suggested an APF=10 for all half-mask face piece disposable respirators, disposables that do not have seal enhancing elastomeric components and are not equipped with two or more adjustable suspension straps would be permitted for use but would not have an APF assigned (i.e., no credit may be taken for their use). The NRC believes that without these components it is difficult to maintain a seal in the workplace. These devices have little physiological impact on the wearer, may be useful in certain situations, and they may accommodate workers who request respiratory protection devices as required by OSHA. Medical screening is not required for each individual prior to use because the devices impose very little physiological stress. In addition, fit testing is not required because an APF is not specified (i.e., no credit may be taken for their use). However, all other

aspects of an acceptable program specified in § 20.1703 are required including training of users in the use and limitations of the device. The NRC believes that this provision allows the flexible and effective use of these devices without imposing conditions that are impracticable. However, for those licensees who would like to use the ANSI recommended APF of 10, proposed footnote e to Appendix A to Part 20 would permit an APF of 10 to be used if the licensee can demonstrate a fit factor of at least 100 using a validated or evaluated quantitative or qualitative fit test. This requirement is appropriate because fit testing is an implicit component of the ANSI approval process.

The half-mask face piece respirator would continue to be approved, but relatively new variations are referred to in the industry as ''reusable,'' ''reusable-disposable,'' ''face-piece-filtering'' or ''maintenance-free'' devices. In these devices, including those considered to be disposables, the filter medium may be an integral part of the face piece, is at least 99 percent efficient, and may not be replaceable. Also, the seal area is enhanced by the application of plastic or rubber to the face-to-face piece seal area and the 2 or more suspension straps are adjustable. These devices are acceptable to the NRC, are considered half masks, may be disposable, and would be given an APF=10, consistent with ANSI recommendations.

The assigned protection factor for full face piece air purifying respirators operating in the negative pressure mode would be increased from 50 to 100. This change is consistent with ANSI recommendations and industry test results. The current Appendix A to Part 20 lists a protection factor of 50 because one design that was tested at Los Alamos in 1975 did not meet the PF 100 criterion. This device is no longer available.

A fit factor of 10 times the APF for negative-pressure air-purifying respirators, which must be obtained as a result of required fit testing under § 20.1703(c)(6), is recommended by ANSI and would be required under the proposed rule; that is, a person would have to achieve a minimum of 1,000 on a fit test in order to use an APF of 100 in the field. Use of a fit factor of 10 times the APF effectively limits internal dose and accounts for any respirator leakage that might occur during workplace activities. Fit factors of 10 times the APF were previously not required for such devices.

A new category of respirator, the loose-fitting face piece, positive pressure (powered) air purifying type, would be included in the proposed Appendix A to Part 20. An APF of 25 would be assigned to this new device in accordance with ANSI Z88.2–1992.

The half-mask and the full face piece air-line respirators operating in demand mode would be listed with APF unchanged at 5. The NRC believes that supplied-air respirators operating in the demand mode should be used with great care in nuclear applications. Because they are very similar in appearance to more highly effective devices (continuous flow and pressure-demand supplied air respirators), they might mistakenly be used instead of the more protective devices.

The APFs for half-and full-face piece air-line respirators operating on continuous flow would be reduced from 1,000 to 50 and from 2,000 to 1,000 respectively. The APF for a full face piece air-line respirator operating in pressure-demand mode would be reduced from 2,000 to 1,000. These changes are based on ANSI recommendations and the results of field measurements indicating that these devices are not as effective as originally thought. This change would have little impact on licensees because typical workplace concentrations encountered are far less than 1000 times the derived air concentrations (DACs). However, licensees may apply for higher APFs if needed and justified. A half-mask air-line respirator operating in pressure-demand mode would be added to Appendix A with an APF of 50 based on ANSI recommendations. The helmet/hood air-line respirator operating under continuous flow would be retained with the APF listed as 1,000. Current footnote h which specifies NIOSH certification criteria for flow rates would be removed. The criteria for air flow rates are part of the NIOSH approval and would be addressed in the revision to NUREG–0041.

The new loose fitting face piece design is also included as an air-line respirator operating under continuous flow. This device would be assigned an APF of 25 in the proposed Appendix A to Part 20 consistent with ANSI recommendations.

The air-line atmosphere-supplied suit would not be assigned an APF. These devices have been used for many years in radiological environments such as control rod drive removal at boiling water reactors with no APF. These devices are primarily used as contamination control devices, but they are supplied with air that the wearer breathes. No problems are known to have occurred at nuclear power plants or other NRC licensees that would disallow use of these devices. The NRC is allowing the use of non-NIOSH-approved suits but wearers are required to meet all other respirator program requirements in § 20.1703 except the need for a fit test. Licensees would still have an option to apply to the Commission for higher APFs in accordance with proposed § 20.1703(b). Requirements for standby rescue persons apply to these devices (§ 20.1703(f)).

In the proposed Appendix A to Part 20, APFs for SCBA devices would remain unchanged. Use of SCBA in demand open circuit and demand recirculating mode requires considerable caution. In the NRC's view, the performance level and reliability of these devices is questionable. The chance of face piece leakage when operating in the negative pressure mode is considerably higher than when operating in a positive pressure mode. This is especially critical for devices that could be mistakenly used in emergency situations. Although ANSI lists high APFs for these devices, they are not recommended by the NRC for use and acceptable alternative devices are readily available. Footnote h requires that controls be implemented to assure that these devices are not used in immediately dangerous to life and health (IDLH) areas.

In proposed footnote d, a specific statement would be added to exclude radioactive noble gases from consideration as an airborne hazard and advising that external (submersion) dose considerations should be the basis for protective actions. In the current rule, DAC values are listed for each noble gas isotope. This has led some licensees to inappropriately base respirator assignments in whole or in part on the presence of these gases. The requirement for monitoring external dose can be found in 10 CFR 20.1502.

The complete proposed changes to Part 20, Subpart H and Appendix A to Part 20 are presented in the codified text section of this document.

III. Issue of Compatibility for Agreement States

In accordance with the new adequacy and compatibility policy and implementing procedures approved by the Commission on June 30, 1997, the proposed modifications to §§ 20.1701 through 20.1703, and § 20.1705 have health and safety significance and Agreement States should adopt the essential objectives of these rule modifications in order to maintain an adequate program. Therefore, these provisions are assigned to the ''Health and Safety (H&S)'' category. The proposed definition of Assigned

Protection Factor (APF) because of its precise operational meaning, is designated as compatibility category C to help insure effective communication. Therefore, Agreement States should adopt the essential objectives of this provision to avoid conflicts, duplication or gaps. The proposed definitions of Disposable respirator, Fit check, Fit factor and Fit test, are stated in general terms and are therefore designated as compatibility category D, not required for purposes of compatibility. Flexibility is also provided to States regarding § 20.1704 in how they handle imposition of additional restrictions on the use of respiratory protection. Therefore, this provision is designated as compatability category D. Comments are specifically requested on whether assigning different compatibility categories to the proposed new definitions creates any implementation problems or inconsistencies.

Appendix A to 10 CFR Part 20 is designated as compatibility category B because assigned protection factors (APFs) provide acceptable levels of protection to be afforded by respirators. Additionally, although § 20.1705 permits applying for the use of higher APFs on a case by case basis, consistency is required in APFs that are established as acceptable in NRC and Agreement State regulations to reduce impacts on licensees who may operate in multiple jurisdictions.

These proposed amendments were provided to the Agreement States during the NRC staff review process via the use of the NRC rulemaking bulletin board and notification to the States of its availability. Two comments were received. One suggested assigning compatibility categories to the five new definitions, which has been done in this proposed rule. A second noted that removal of generic requirements from the footnotes to Appendix A greatly improved the rule.

IV. Finding of No Significant Environmental Impact: Availability

The NRC has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that the proposed amendments, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required.

The proposed amendment addresses technical and procedural improvements in the use of respiratory protection devices to maintain total occupational dose as low as is reasonably achievable. None of the impacts associated with this rulemaking have any effect on any places or entities outside of a licensed site. An effect of this proposed rulemaking is expected to be a decrease in the use of respiratory devices and an increase in engineering and other controls to reduce airborne contaminants. It is expected that there would be no change in radiation dose to any member of the public as a result of the revised regulation.

The determination of this environmental assessment is that there will be no significant offsite impact to the public from this action. Therefore, in accord with its commitment to complying with Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, dated February 11, 1994, in all its actions, the NRC has also determined that there are no disproportionate, high, and adverse impacts on minority and low-income populations. The NRC uses the following working definition of ''environmental justice'': the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, culture, income, or educational level with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Comments on any aspect of the environmental assessment may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The NRC has sent a copy of the environmental assessment and this proposed rule to every State Liaison Officer and requested their comments on the environmental assessment.

The draft environmental assessment is available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of this document are available as indicated in the **ADDRESSES** heading.

V. Paperwork Reduction Act Statement

This proposed rule contains amendments to reduce the information collection requirements contained in 10 CFR Part 20 that are considered to be insignificant (250 hours annually), when compared with the overall requirements of the CFR Part (210, 205 hours annually). NRC does not consider this reduction in the burden to be significant enough to trigger the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0014.

Public Protection Notification

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

VI. Regulatory Analysis

The NRC has prepared a regulatory analysis for the proposed amendment. The analysis examines the benefits and impacts considered by the NRC. The regulatory analysis is available for inspection at the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC. Single copies are available as indicated under the **ADDRESSES** heading.

VII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC certifies that, if adopted, this proposed rule would not have a significant economic impact on a substantial number of small entities. The anticipated impact of the proposed changes would not be significant because the revised regulation basically represents a continuation of current practice. The benefit of the proposed rule is that it would provide relief from certain reporting and recordkeeping requirements, incorporate several ANSI recommendations for improved programmatic procedures, and permit the use of new, effective respiratory devices, thus increasing licensee flexibility.

The NRC is seeking public comment on the initial regulatory flexibility certification. The NRC is seeking comment particularly from small entities as defined under the NRC's size standards 10 CFR 2.810, as to how the proposed regulations would affect them and how the regulations may be implemented or otherwise modified to impose less stringent requirements on small entities while still adequately protecting the public health and safety. Any small entity subject to this regulation who determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should offer comments that specifically discuss the following items:

(a) The licensee's size and how the proposed regulation would result in a significant economic burden or whether the resources necessary to implement this amendment could be more effectively used in other ways to optimize public health and safety, as compared to the economic burden on a larger licensee;

(b) How the proposed regulation could be modified to take into account the licensees' differing needs or capabilities;

(c) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulation were modified as suggested by the licensee;

(d) How the proposed regulation, as modified, could more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individual or group; and

(e) How the proposed regulation, as modified, would still adequately protect the public health and safety.

The comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. *ATTN:* Rulemakings and Adjudications Staff. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm Federal workdays.

VIII. Backfit Analysis

Although the NRC staff has concluded that some of the changes being proposed constitute a reduction in burden, the implementation of these and other changes will require revisions to licensee procedures constituting a potential backfit under 10 CFR 50.109(a)(1). Under § 50.109(a)(2), a backfit analysis is required unless the proposed rule meets one of the exceptions listed in § 50.109(a)(4). This proposed rule meets the exception at § 50.109(a)(4)(iii) in that it is redefining the level of adequate protection as regards the use of respirators for radiological protection.

Section II, Summary of the Proposed Changes, summarizes the proposed changes to Subpart H of 10 CFR Part 20. The reasons for making these changes are also provided. Many of the proposed changes are considered by the NRC to constitute a redefinition of adequate level of protection in that they reflect new consensus technical guidance published by the American National Standards Institute (ANSI) on respiratory protection developed since 10 CFR Part 20, Subpart H was published. The changes include recognizing new respirator designs and types that were not available 20 years ago, changing the assigned protection factors (APFs) based on new data, deleting certain reporting requirements which are considered no longer needed for oversight of a mature industry, and numerous procedural improvements that have been developed and proven by respiratory practitioners.

In conclusion, the Commission believes that the proposed changes constitute a burden reduction with the exception of the need to revise procedures to implement the requirements. The proposed changes also clearly redefine the level of adequate protection required for workers who use respiratory protection and are, therefore, the type of change for which a backfit analysis is not required under § 50.109(a)(4)(iii).

List of Subjects in 10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recording requirements, Special nuclear material, Source material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 20.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

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

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. Section 20.1003 is amended by adding the definitions Assigned protection factor (APF), Disposable respirator, Fit check, Fit factor, and Fit test to read as follows:

§ 20.1003 Definitions.

* * * * *

Assigned protection factor (APF) means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

* * * * *

Disposable respirator means a respirator for which maintenance is not intended and that is designed to be discarded after excessive resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

* * * * *

Fit check (user seal check) means a performance check conducted by a respirator wearer to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate.

Fit factor means a quantitative measure of the fit of a particular respirator to a particular individual.

Fit test means a test, quantitative or qualitative, to evaluate the fit of a respirator on an individual and to determine a fit factor.

* * * * *

3. Section 20.1701 is revised to read as follows:

§ 20.1701 Use of process or other engineering controls.

The licensee shall use, to the extent practicable, process or other engineering controls (e.g., containment, decontamination, or ventilation) to control the concentration of radioactive material in air.

4. In § 20.1702, paragraph (c) is revised to add the following footnote:

§ 20.1702 Use of other controls.

* * * * *

(c) Use of respiratory protection equipment [2]; or

5. Section 20.1703 is revised to read as follows:

§ 20.1703 Use of individual respiratory protection equipment.

If the licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,

(a) The licensee shall use, only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH).

(b) If the licensee wishes to use equipment that has not been tested or certified by NIOSH, or for which there is no schedule for testing or certification, the licensee shall submit an application to the NRC for authorized use of this equipment except as provided in this part. The application must include evidence that the material and performance characteristics of the equipment are capable of providing the

[2] If the licensee performs an ALARA analysis to determine whether or not respirators should be used, safety factors other than radiological may be taken into consideration and the impact of the use of respirators on workers industrial health and safety risk should be considered.

proposed degree of protection under anticipated conditions of use. This must be demonstrated either by licensee testing or on the basis of reliable test information.

(c) The licensee shall implement and maintain a respiratory protection program that includes:

(1) Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate exposures;

(2) Surveys and bioassays, as necessary, to evaluate actual intakes;

(3) Testing of respirators with APFs for operability (fit check for face sealing devices and functional check for others) immediately prior to each use;

(4) Written procedures regarding monitoring, including air sampling and bioassays; training of respirator users; fit testing; respirator selection; breathing air quality; inventory and control; storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment; recordkeeping; and limitations on periods of respirator use and relief from respirator use;

(5) Determination by a physician before the initial fitting of face sealing respirators, before the first field use of non-face sealing respirators, and either every 12 months thereafter, or periodically at a frequency determined by a physician, that the individual user is medically fit to use the respiratory protection equipment;

(6) Fit testing, with fit factor ≥10 times the APF for negative pressure devices, and a fit factor ≥100 for any positive pressure, continuous flow, and pressure-demand devices, before the first field use of tight fitting, face-sealing respirators and periodically thereafter at a frequency not to exceed 3 years.

(d) The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other conditions that might require such relief.

(e) The licensee shall use equipment, within limitations for type and mode of use and shall make provision for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment in such a way as not to interfere with the proper operation of the respirator.

(f) Standby rescue persons are required whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used, from which an unaided individual would have difficulty extricating himself or herself. The standby persons must be equipped with respiratory protection devices or other apparatus appropriate for the potential hazards. The standby rescue persons, shall observe or otherwise be in direct communication with the workers and must be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. A sufficient number of standby rescue persons must be available to effectively assist all users of this type of equipment.

(g) Whenever atmosphere-supplying respirators are used, they must be supplied with respirable air of grade D quality or better as defined by the Compressed Gas Association and endorsed by ANSI, in publication G–7.1, ''Commodity Specification for Air,'' 1989, (ANSI–CGA G–7.1, 1989).

(h) No material or substance, the presence or absence of which is under the control of the respirator wearer, may be present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator facepiece.

(i) In estimating the exposure of individuals to airborne radioactive materials, the concentration of radioactive material in the air that is inhaled when respirators are worn is initially assumed to be the ambient concentration in air without respiratory protection, divided by the assigned protection factor. If the exposure is later found to be greater than estimated, the corrected value must be used. If the exposure is later found to be less than estimated, the corrected value may be used.

6. Section 20.1704 is revised to read as follows:

§ 20.1704 Further restrictions on the use of respiratory protection equipment.

The Commission may impose restrictions in addition to those in §§ 20.1702, 20.1703, and Appendix A to Part 20 in order to:

(a) Ensure that the respiratory protection program of the licensee is adequate to limit exposures of individuals to airborne radioactive materials consistent with maintaining total effective dose equivalent ALARA; and

(b) Limit the extent to which a licensee may use respiratory protection equipment instead of process or other engineering controls.

7. Section 20.1705 is added to read as follows:

§ 20.1705 Application for use of higher assigned protection factors.

The licensee shall obtain authorization from the Commission before using assigned protection factors in excess of those specified in Appendix A to Part 20. The Commission may authorize a licensee to use higher assigned protection factors on receipt of an application that—

(a) Describes the situation for which a need exists for higher protection factors; and

(b) Demonstrates that the respiratory protection equipment provides these higher protection factors under the proposed conditions of use.

8. Appendix A to Part 20 is revised to read as follows:

Appendix A to Part 20

ASSIGNED PROTECTION FACTORS FOR RESPIRATORS [a]

Description	Assigned protection factors		
	Modes [b]	Particulate [c]	Gases and vapors [d]
I. AIR PURIFYING RESPIRATORS:			
Single-use disposable [e]	NP	(e)	
Facepiece, half mask [f]	NP	10	
Facepiece, full	NP	100	
Facepiece, half mask	PP	50	
Facepiece, full	PP	1000	
Helmet/hood	PP	1000	
Facepiece, loose-fitting	PP	25	
II. ATMOSPHERE SUPPLYING RESPIRATORS:			

ASSIGNED PROTECTION FACTORS FOR RESPIRATORS [a]—Continued

Description	Assigned protection factors		
	Modes [b]	Particulate [c]	Gases and vapors [d]
1. Air-line respirator			
Facepiece, half mask	D	5	5
Facepiece, half mask	CF	50	50
Facepiece, half mask	PD	50	50
Facepiece, full	D	5	5
Facepiece, full	CF	1000	1,000
Facepiece, full	PD	1000	1,000
Helmet/hood	CF	1000	1,000
Facepiece, loose-fitting	CF	25	25
Suit	CF	(g)	(g)
2. Self-contained breathing Apparatus (SCBA).			
Facepiece, full	D	[h] 50	[h] 50
Facepiece, full	PD	[i] 10,000	[i] 10,000
Facepiece, full	RD	[h] 50	[h] 50
Facepiece, full	RP	[i] 10,000	[i] 10,000
III. COMBINATION RESPIRATORS:			
Any combination of air-purifying and atmosphere-supply respirators		Assigned protection factor for type and mode of operation as listed above	

[a.] These assigned protection factors apply only in a respiratory protection program that meets the requirements of this Part. They are applicable only to airborne radiological hazards and may not be appropriate to circumstances when chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. Selection and use of respirators for such circumstances must also comply with Department of Labor regulations contained in 29 CFR 1910.

Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B to Part 20 are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances, limitations on occupancy may have to be governed by external dose limits.

[b.] The mode symbols are defined as follows:

NP = negative pressure (air-purifying respirator)
PP = positive pressure (air-purifying respirator)
CF = continuous flow (supplied-air respirator)
D = demand (supplied-air respirator)
PD = pressure-demand (open circuit, supplied-air respirator)
RD = demand, recirculating (closed circuit SCBA)
RP = positive pressure, recirculating (closed circuit SCBA).

[c.] Air purifying respirators with APF ≤ 100 must be equipped with particulate filters that are at least 99 percent efficient. Air purifying respirators with APF ≤ 100 must be equipped with particulate filters that are at least 99.97 percent efficient.

[d.] Excluding radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin so that an overall protection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard, and protective actions for these contaminants should be based on external (submersion) dose considerations. The licensee may apply to the Commission for the use of an APF greater than 1 for sorbent cartridges as protection against airborne radioactive gasses and vapors (e.g., radioiodine).

[e.] Licensees may permit individuals to use this type of respirator who have not been medically screened or fit tested on the device provided that no credit be taken for their use in estimating intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use fit check on this type of device. All other respiratory protection program requirements listed in § 20.1703 apply. An assigned protection factor has not been assigned for these devices. However, an APF equal to 10 may be used if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

[f.] Under-chin type only. No distinction is made in this Appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the facepiece (e.g., disposable or reusable disposable). Both types are acceptable so long as the seal area of the latter contains some substantial type of seal-enhancing material such as rubber or plastic, the two or more suspension straps are adjustable, the filter medium is at least 99 percent efficient and all other requirements of this part are met.

[g.] No NIOSH approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met [i.e., § 20.1703].

[h.] The licensee should implement institutional controls to assure that these devices are not used in areas immediately dangerous to life and health (IDLH).

[i.] This type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure such as skin absorption shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

Dated at Rockville, Maryland this 13th day of July 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98–19086 Filed 7–16–98; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064–AC16

Deposit Insurance Regulations; Joint Accounts and ''Payable-on-Death'' Accounts

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing to amend its regulations governing the insurance coverage of joint ownership accounts and revocable trust (or payable-on-death) accounts. These proposed amendments to the insurance regulations would supplement the revisions adopted by the FDIC in a final rule published in May 1998. The purpose of these amendments is to increase further the public's understanding of the insurance regulations through simplification. The proposed rule would make two amendments to the regulations. First, it would eliminate step one of the two-step process for determining the insurance coverage of joint accounts. Second, it would change the insurance coverage of ''payable-on-death'' accounts by adding parents and siblings to the current list of ''qualifying beneficiaries.''

DATES: Written comments must be received on or before October 15, 1998.

ADDRESSES: Written comments should be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m. Also, comments may be sent by FAX ((202) 898–3838) or e-mail (comments @FDIC.gov). Comments will be available for inspection in the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C., on business days between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Christopher L. Hencke, Counsel, (202) 898–8839, or Joseph A. DiNuzzo, Senior Counsel, (202) 898–7349, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

I. Simplifying the Insurance Regulations

Federal deposit insurance plays a critical role in assuring stability and public confidence in the nation's financial system. At the same time, deposit insurance may reduce the incentive for depositors to monitor and discipline banks for excessive risk-taking. At present, the only depositors who will impose a degree of market discipline are those with deposits over the $100,000 insurance limit.

All depositors should understand the rules governing the application of the $100,000 limit. Confusion regarding these rules could lead to a loss of funds by some depositors and an erosion in public confidence. In addition, depositors over the $100,000 limit will impose no market discipline if they do not realize that their deposits are partly uninsured. For these reasons, the deposit insurance rules should be as simple as possible.

Unfortunately, recent evidence indicates that some of the insurance rules are misunderstood by a large percentage of the employees of depository institutions. This evidence includes surveys conducted in three states by public interest research groups (PIRGs). These surveys involved the FDIC's rules governing the insurance coverage of joint accounts and ''payable-on-death'' (POD) accounts. Of the bank employees included in the PIRG surveys, 63% to 80% misunderstood the joint account rules and 59% to 83% misunderstood the POD rules. (Copies of the PIRG survey results may be obtained by contacting the FDIC.)

Two years ago, in May 1996, the FDIC sought comments on amending the rules governing joint and POD accounts in an advance notice of proposed rulemaking (ANPR). See 61 FR 25596 (May 22, 1996). In May 1997, the FDIC published a proposed rule. See 62 FR 26435 (May 14, 1997). The amendments involving joint and POD accounts were not included in the proposed rule because the FDIC, at that time, did not possess sufficient information regarding the amendments' potential costs.

In May 1998, the proposed rule became a final rule. See 63 FR 25750 (May 11, 1998). Through this final rule, the FDIC made a number of important changes that will make the insurance regulations more understandable to the public. (A detailed explanation of these changes is set forth in the preamble of the **Federal Register** final rule.) In the preamble, the FDIC also stated that it would continue to study the policy, economic and other implications of amending the rules governing joint and POD accounts. The staff's study of those issues has resulted in the proposed rule published today.

II. The Proposed Rule

The proposed rule would amend two sections of the deposit insurance regulations: the new § 330.9 (former § 330.7), governing the insurance of joint ownership accounts; and the new § 330.10 (former § 330.8), governing the insurance of revocable trust (or POD) accounts.[1]

A. Joint Accounts

Under the current rules, qualifying joint accounts are insured separately from any single ownership accounts maintained by the co-owners at the same insured depository institution. See 12 CFR 330.9(a) (former 330.7(a)). A joint account is a ''qualifying'' joint account if it satisfies certain requirements: (1) the co-owners must be natural persons; (2) each co-owner must personally sign a deposit account signature card; and (3) the withdrawal rights of the co-owners must be equal. See 12 CFR 330.9(c)(1) (former 330.7(c)(1)). The requirement involving signature cards is inapplicable if the account at issue is a certificate of deposit, a deposit obligation evidenced by a negotiable instrument, or an account maintained for the co-owners by an agent or custodian. See 12 CFR 330.9(c)(2) (former 330.7(c)(2)).

Assuming these requirements are satisfied, the current rules provide that the $100,000 insurance limit shall be applied in a two-step process. First, all joint accounts owned by the same combination of persons at the same insured depository institution are added together and insured to a limit of $100,000. Second, the interests of each person in all joint accounts, whether owned by the same or some other combination of persons, are added together and insured to a limit of $100,000. See 12 CFR 330.9(b) (former 330.7(b)). The effects of this two-step process are: (1) no joint account can be insured for more than $100,000; (2) no group of joint accounts owned by the same combination of persons can be insured for more than $100,000; and (3) no person's combined interest in all joint accounts can be insured for more than $100,000.

[1] ''New'' sections refer to the section numbers resulting from the recent final rule. The ''new'' sections became effective on July 1, 1998.

The two-step process for insuring joint accounts often is misunderstood by bankers (as indicated by the PIRG studies) as well as consumers. This widespread confusion has resulted in the loss by some depositors of significant sums of money. For example, at one failed depository institution, three joint accounts (and no other types of accounts) were maintained by three siblings. The interest of each sibling was less than $100,000. The siblings chose to place all of their funds in joint accounts so that each of them would have access to the money in the event of an emergency or sudden illness. When the institution failed, step one of the two-step process required the aggregation of the three joint accounts. The amount in excess of $100,000 was uninsured.

In this example, all of the funds owned by the siblings could have been insured if the funds had been held in individual accounts as opposed to joint accounts. Thus, the depositors did not suffer a loss because they placed too much money in a single depository institution that failed. Rather, they suffered a loss simply because they misunderstood the FDIC's regulations.

Another example is provided by *Sekula* v. *FDIC*, 39 F.3d 448 (3d Cir. 1994). That court case involved six joint accounts owned by a husband and wife. The combined balance of these accounts was almost $170,000. Of this amount, only $100,000 was found to be insured. The court rejected the argument made by the depositors that they were entitled to insurance up to $200,000 (i.e., $100,000 for each owner). The court stated, however, that the two-step process for insuring joint accounts is unclear.

In order to simplify the coverage of joint accounts, the FDIC is proposing to eliminate the first step of the two-step process. Under this proposed amendment, the maximum coverage that any one person could obtain for his/her interests in all qualifying joint accounts would remain $100,000. The maximum insurance coverage of a particular joint account, however, would no longer be $100,000. In the case of a joint account owned by two persons, for example, the maximum coverage would increase from $100,000 to $200,000 (i.e., $100,000 for each owner).

The effects of the proposed amendment are subject to debate. For some depositors, such as the three siblings in the example, the amendment would result in an expansion of coverage. On the other hand, many or most such depositors could obtain the same level of coverage without the proposed amendment if they understood the regulations. The potential cost to the FDIC of the proposed amendment is discussed in greater detail below.

B. POD Accounts

Under the current rules, qualifying revocable trust (or POD) accounts are insured separately from any other types of accounts maintained by either the owner or the beneficiaries at the same insured depository institution. See 12 CFR 330.10(a) (former 330.8(a)). A POD account is a ''qualifying'' POD account if it satisfies certain requirements: (1) the beneficiaries must be the spouse, children or grandchildren of the owner; (2) the beneficiaries must be specifically named in the deposit account records; (3) the title of the account must include a term such as ''in trust for'' or ''payable-on-death to'' (or any acronym therefor); and (4) the intention of the owner of the account (as evidenced by the account title or any accompanying revocable trust agreement) must be that the funds shall belong to the named beneficiaries upon the owner's death. If the account has been opened pursuant to a formal ''living trust'' agreement, the fourth requirement means that the agreement must not place any conditions upon the interests of the beneficiaries that might prevent the beneficiaries (or their estates or heirs) from receiving the funds following the death of the owner. Such conditions are known as ''defeating contingencies.''

Assuming these requirements are satisfied, the $100,000 insurance limit is not applied on a ''per owner'' basis. Rather, the $100,000 insurance limit is applied on a ''per beneficiary'' basis to all POD accounts owned by the same person at the same insured depository institution. For example, a POD account owned by one person or a group of POD accounts owned by one person could be insured up to $500,000 if the qualifying beneficiaries (i.e., spouse, children and grandchildren) were five in number.

If one of the named beneficiaries of a POD account is not a qualifying beneficiary (i.e., not a spouse, child or grandchild), the funds corresponding to that beneficiary are treated for insurance purposes as single ownership funds of the owner (i.e., the account holder). In other words, they are aggregated with any funds in any single ownership accounts of the owner and insured to a limit of $100,000. See 12 CFR 330.10(b) (former 330.8(b)).

On a number of occasions, depositors have lost money upon the failure of an insured depository institution because they believed that POD accounts were insured on a simple ''per beneficiary'' or ''per family member'' basis. They did not understand the difference between qualifying beneficiaries and non-qualifying beneficiaries. Typically, in such cases, the named beneficiary has been a parent or sibling. In the absence of a qualifying beneficiary, the POD account has been aggregated with one or more single ownership accounts.

In response to such cases, the FDIC is proposing to add siblings and parents to the list of qualifying beneficiaries. This approach would protect most depositors who misunderstand the current rules without abandoning the basic concept that insurance for POD accounts is provided up to $100,000 on a ''per qualifying beneficiary'' basis. The potential cost to the deposit insurance funds is discussed below.

III. The Cost of the Proposed Rule

At the request of the Board of Directors, the FDIC staff recently conducted a study of the potential cost of eliminating step one of the two-step process for insuring joint accounts. The study also addressed the potential cost of adding parents and siblings to the list of ''qualifying beneficiaries'' for POD accounts. Copies of this study may be obtained from the FDIC.

The FDIC study was based upon depositor files from ten banks that failed during the past decade. At each of these banks, depositors suffered losses as a result of owning deposits over the $100,000 insurance limit. The advantage of studying the accounts at such failed banks is that the accounts were subject to actual insurance determinations. Also, as a depository institution weakens, some depositors may withdraw their deposits in order to protect themselves. For this reason, in determining the cost to the FDIC of a change in the insurance regulations, an analysis of the accounts at failed banks is more useful than an analysis of accounts at healthy institutions.

The total of all deposits at the ten banks at the time of failure was $6.7 billion, of which $57 million (0.85%) was determined to be uninsured. The FDIC's analysis involved the files of 1,300 depositors, each of whom maintained account(s) in excess of $100,000.

As discussed below, the FDIC's study suggests that the cost of the proposed rule would be minimal compared with the potential benefits. Depositors would benefit by not losing funds through misconceptions regarding the scope of their insurance coverage; the financial system would benefit through increased public confidence.

A. Joint Accounts

At the ten failed banks in the FDIC's study, uninsured joint account deposits totaled $13 million. Of this amount, $12 million was uninsured under step one of the current two-step process. This figure represented 21.5% of all uninsured deposits but only 0.18% of total deposits. The impact of eliminating step one can be estimated by applying this 0.18% figure to failed bank data from 1988 (the costliest year in recent history).

In 1988, the FDIC assumed the obligation to pay insurance on deposits in the amount of $38 billion. This figure does not represent the FDIC's losses for the year because the FDIC (as subrogee of the insured depositors) recovered a significant amount of money through the liquidation of the assets of the failed institutions. The losses for the year amounted to $6.8 billion, representing a loss ratio of 18%.

Increasing $38 billion (the deposit obligations assumed by the FDIC in 1988) by 0.18% (the increase that would result from the elimination of step one) yields additional insured funds in the amount of $69.8 million. Applying a loss ratio of 18% to this $69.8 million (18% being the FDIC's loss ratio in 1988) yields additional losses in the amount of $12.6 million. In other words, in 1988, the absence of step one of the two-step process for insuring joint accounts would have resulted in estimated additional losses to the FDIC of $12.6 million (an increase of 0.18%).

In 1993, the Federal Reserve Board found that the elimination of step one of the current joint account rules would have increased the amount of insured deposits in all FDIC-insured institutions by about $22 billion (out of a total deposit base at that time of $3.273 trillion). In its own study, the FDIC came to a different conclusion. Currently, the level of domestic deposits at all FDIC-insured institutions is $3.6 trillion. If the 0.18% figure discussed above is applied to this $3.6 trillion, the conclusion follows that the elimination of step one would increase the amount of insured deposits by $6.5 billion—not $22 billion as found in the Federal Reserve study. The difference between the two studies may be attributable to the fact that the FDIC's study was limited to failed banks that produced actual losses for depositors. In any event, in measuring the impact of a change in the insurance regulations, the important question is not the increase in the amount of insured deposits ($6.5 billion versus $22 billion) but the increase in possible losses to the FDIC. As discussed above, in 1988 (the costliest year in recent history), the absence of step one of the two-step process would not have resulted in additional losses amounting to billions of dollars. Rather, the additional loss suffered by the FDIC would have amounted to approximately $12.6 million.

B. POD Accounts

At the ten bank sample, the total deposit base was $6.7 billion. Of this amount, depositors with more than $100,000 in total deposits held $22.2 million in POD accounts for the benefit of non-qualifying beneficiaries. In accordance with the FDIC's regulations, these funds in the amount of $22.2 million were treated as single ownership accounts. In this category, most of the funds were insured. Only $6.3 million was uninsured.

From this type of study, it is difficult to draw firm conclusions about the consequences of changing the insurance rules applicable to POD accounts. The problem is the impossibility of predicting how depositors might alter their accounts in response to any such changes. In any event, the results of the FDIC's study indicate that POD accounts are not a significant component of a typical bank's deposit portfolio. For this reason, any change in the rules governing the insurance coverage of POD accounts should not produce a significant impact on the FDIC.

IV. Request for Comments

The Board of Directors of the FDIC (Board) is seeking comments on the proposed amendments to the regulations governing the insurance coverage of joint accounts and POD accounts. In addition, the Board is seeking comments on any other possible means of simplifying the insurance coverage of joint or POD accounts.

V. Paperwork Reduction Act

The proposed rule would simplify the FDIC's deposit insurance regulations. It would not involve any collections of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information has been submitted to the Office of Management and Budget for review.

VI. Regulatory Flexibility Act

The proposed rule would not have a significant impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The amendments to the deposit insurance rules would apply to all FDIC-insured depository institutions and would impose no new reporting, recordkeeping or other compliance requirements upon those entities. Accordingly, the Act's requirements relating to an initial and final regulatory flexibility analysis are not applicable.

List of Subjects in 12 CFR Part 330

Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings and loan associations, Trusts and trustees.

The Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to amend part 330 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 330—DEPOSIT INSURANCE COVERAGE

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

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818(q), 1819(Tenth), 1820(f), 1821(a), 1822(c).

2. In § 330.9, paragraph (b) is revised to read as follows:

§ 330.9 Joint ownership accounts.

* * * * *

(b) *Determination of insurance coverage.* The interests of each co-owner in all qualifying joint accounts, whether owned by the same or different combinations of persons, shall be added together and the total shall be insured up to $100,000. (Example: ''A&B'' have a qualifying joint account with a balance of $60,000; ''A&C'' have a qualifying joint account with a balance of $80,000; and ''A&B&C'' have a qualifying joint account with a balance of $150,000. A's combined ownership interest in all qualifying joint accounts would be $120,000 ($30,000 plus $40,000 plus $50,000); therefore, A's interest would be insured in the amount of $100,000 and uninsured in the amount of $20,000. B's combined ownership interest in all qualifying joint accounts would be $80,000 ($30,000 plus $50,000); therefore, B's interest would be fully insured. C's combined ownership interest in all qualifying joint accounts would be $90,000 ($40,000 plus $50,000); therefore, C's interest would be fully insured.)

* * * * *

3. In § 330.10, paragraph (a) is revised to read as follows:

§ 330.10 Revocable trust accounts.

(a) *General rule.* Funds owned by an individual and deposited into an account evidencing an intention that upon the death of the owner the funds shall belong to one or more qualifying beneficiaries shall be insured in the amount of up to $100,000 in the

aggregate as to each such named qualifying beneficiary, separately from any other accounts of the owner or the beneficiaries. For purposes of this provision, the term ''qualifying beneficiaries'' means the owner's spouse, child/children, grandchild/grandchildren, parent/parents or sibling/siblings. (Example: If A establishes a qualifying account payable upon death to his spouse, sibling and two children, assuming compliance with the rules of this provision, the account would be insured up to $400,000 separately from any other different types of accounts either A or the beneficiaries may have with the same depository institution.) Accounts covered by this provision are commonly referred to as tentative or ''Totten trust'' accounts, ''payable-on-death'' accounts, or revocable trust accounts.

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C., this 7th day of July, 1998.

Federal Deposit Insurance Corporation.

James LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–18830 Filed 7–16–98; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–50–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This document announces a reopening of the comment period for the above-referenced NPRM which proposed adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. That NPRM invites comments concerning the proposed requirements for installation of components for the suppression of electrical transients, and/or installation of components to provide shielding and separation to the fuel system wiring that is routed to the fuel tanks from adjacent wiring; and installation of flame arrestors and pressure relief valves in the fuel vent system. This reopening of the comment period is necessary to afford all interested persons an opportunity to present their views on the proposed requirements of that NPRM.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–50–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

Information concerning this NPRM may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Chris Hartonas, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, telephone (425) 227–2864, fax (425) 227–1181; or Dorr Anderson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, telephone (425) 227–2684, fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes was published in the **Federal Register** on April 22, 1998 (63 FR 19852). That action proposed to require installation of components for the suppression of electrical transients, and/or installation of components to provide shielding and separation to the fuel system wiring that is routed to the fuel tanks from adjacent wiring; and installation of flame arrestors and pressure relief valves in the fuel vent system. That action invites comments on regulatory, economic, environmental, and energy aspects of the proposal.

That action was prompted by testing results, obtained in support of an accident investigation, and by re-examination of possible causes of a similar accident. The actions specified by the proposed AD are intended to prevent possible ignition of fuel vapors in the fuel tanks, and external ignition of the fuel vapor exiting the fuel vent system and consequent propagation of a flame front into the fuel tanks.

Since the issuance of that proposal, commenters have raised issues regarding the ability to implement corrective action in a timely manner, particularly because the manufacturer has yet to issue a service bulletin. Based on these and other comments, the FAA has determined that further discussion and input may be beneficial prior to the adoption of a final rule. As a result, the FAA has decided to reopen the comment period for 45 days to receive additional comments.

The comment period for Rules Docket No. 98-NM–50-AD closes August 31, 1998.

Because no other portion of the proposal or other regulatory information has been changed, the entire proposal is not being republished.

Issued in Renton, Washington, on July 8, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18950 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–43]

Proposed Modification of Class E Airspace; Two Harbors, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Two Harbors, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 24 has been developed for Richard B. Helgeson Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action would increase the radius of, and add a northeast extension to, the existing controlled airspace for Richard B. Helgeson Airport.

DATES: Comments must be received on or before September 8, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–43, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief

Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

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 with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AGL–43.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or 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 comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, 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 NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's 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 14 CFR part 71 to modify Class E airspace at Two Harbors, MN, to accommodate aircraft executing the proposed GPS Rwy 24 SIAP at Richard B. Helgeson Airport by increasing the radius of, and adding a northeast extension to, the existing controlled for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. 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 regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed 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 proposed 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).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, 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 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 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Two Harbors, MN [Revised]

Richard B. Helgeson Airport, MN
(Lat. 47°02′55″ N, long. 91°44′43″ W)
ANATE Waypoint
(Lat. 47°05′30″ N, long. 91°37′46″ W)

The airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Richard B. Helgeson Airport and within 2.7 miles each side of the 073° bearing from Richard B. Helgeson Airport, extending from the 6.4-mile radius to 7.4 miles northeast of the airport, and within 4.0 miles each side of the 042° bearing from ANATE Waypoint, extending from the waypoint to 6.4 miles northeast of the waypoint, excluding that airspace within the Silver Bay, MN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on July 6, 1998.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 98–19102 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 17, 18, and 150

Revision of Federal Speculative Position Limits and Associated Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') has long established and enforced speculative position limits for futures contracts on various agricultural commodities. On April 7, 1993, the Commission promulgated interim final

rules amending Federal speculative position limits. The interim amendments generally maintained the existing speculative position limit levels for the delivery months and increased limit levels for the deferred months, at levels below those originally proposed. The Commission is proposing to raise the levels of speculative position limits for the deferred months to the levels originally proposed.

In addition, the Commission is proposing to codify various policies relating to the requirement that exchanges set speculative position limits as required by rule 1.61, 17 CFR 1.61. These relate to the levels which the Commission has approved for such rules, and to various exemptions from the general requirement that exchanges set speculative position limits which the Commission has approved over the years. Specifically, the Commission is proposing to codify an exemption permitting exchanges to substitute position accountability rules for position limits for high volume and liquid markets. The Commission is proposing elsewhere in this issue of the **Federal Register** to amend its guideline for application for contract market designation to conform it to the changes to the speculative position limit rules proposed herein that apply at initial contract designation. *See*, Guideline No. 1, 17 CFR Part 5, Appendix A.

The Commission is also proposing to amend the applicability of the limited exemption from non-spot month speculative position limits under Commission rule 150.3, 17 CFR 150.3, for entities that authorize independent account controllers to trade on their behalf. Specifically, the Commission is proposing to amend the definition of entities eligible for this relief under Commission rule 150.1(d), 17 CFR 150.1(d), to expand the categories of eligible entities and to extend it to the separately incorporated affiliates of an eligible entity.

Finally, the Commission is proposing to amend its rule on aggregation. In particular, the Commission is proposing to clarify the applicability of a limited partnership exemption to limited partners or shareholders with less than a 25% ownership interest, or to pooled trading accounts with ten or fewer account owners. The Commission is also proposing to amend its rules to clarify that a commodity pool operator's principals and its affiliates are treated the same as the commodity pool operator itself for purposes of the Commission's aggregation rule.

DATES: Comments must be received by September 15, 1998.

ADDRESSES: Comments should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, attention: Office of the Secretariat; transmitted by facsimile at (202) 418–5521; or transmitted electronically at [secretary@cftc.gov]. Reference should be made to ''Speculative Position Limits.''

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Background

Speculative position limits have been a tool for regulation of futures markets for over sixty years. Since the Commodity Exchange Act of 1936, Congress consistently has expressed confidence in the use of speculative position limits as an effective means of preventing unreasonable or unwarranted price fluctuations.[1] Section 4a(1) of the Commodity Exchange Act (Act), 7 U.S.C. 6a(1), provides the Commission with authority to:

> fix such limits on the amount of trading which may be done or positions which may be held by any person under contracts of sale of such commodity for future delivery on or subject to the rules of any contract market as the Commission finds are necessary to diminish, eliminate, or prevent such burden.

The Commission directly administers speculative position limits on futures contracts for most of the domestic agricultural commodities enumerated in section 2(a)(1) of the Act. *See*, 17 CFR Part 150. Prior to the Act's amendment in 1974 which expanded its jurisdiction to all ''services, rights and interests'' in which futures contracts are traded, only these enumerated commodities were regulated. Both prior to and after the 1974 amendments to the Act, futures markets which traded commodities not so enumerated applied speculative position limits by exchange rule, if at all. In 1981, the Commission promulgated rule 1.61, requiring exchanges to adopt rules setting speculative position limits for all contract markets not subject to Commission-set speculative position limits. Since then, all contract markets have been subject to either Commission or exchange-set speculative position limits.[2] Responsibility for enforcement of speculative position limits is shared by the Commission and the exchanges.[3]

The Commission periodically has reviewed its policies and rules pertaining to each of the three elements of the regulatory framework for speculative position limits—the levels of the limits, the exemptions from them (in particular, for hedgers), and the policy on aggregating accounts.[4] The Commission, in this notice of proposed rulemaking, is proposing to raise the levels of the Commission speculative position limits and to codify a number of broad exemptions from the requirement of rule 1.61 that exchanges establish speculative position limits for all contracts not subject to Commission

[1] *See*, H.R. Rep. No. 421, 74th Cong., lst Sess. 1 (1935); *See also*, H.R. Rep. No. 624, 99th Cong., 2d Sess. 44 (1986). Section 4a(1) of the Commodity Exchange Act, 7 U.S.C. 6a(1), makes the explicit finding that:

> [e]xcessive speculation in any commodity under contracts of sale of such commodity for future delivery made on or subject to the rules of contract markets causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity.

[2] Commission rule 1.61, 17 CFR 1.61, requires that, absent an exemption, exchanges adopt and enforce speculative position limits for all contract markets which are not subject to the Commission-set limits. In addition, Commission rule 1.61 permits exchanges to adopt and enforce their own speculative position limits for those contracts which have Commission speculative position limits, as long as the exchange limits are not higher than the Commission's.

[3] Section 4a(e) provides that a violation of a speculative position limit established by a Commission-approved exchange rule is also a violation of the Act. Thus, the Commission can enforce directly violations of exchange-set speculative position limits as well as those provided under Commission rules.

[4] Initially, for example, the Commission redefined ''hedging'' (42 FR 42748 (August 24, 1977)), raised speculative position limits in wheat (41 FR 35060 (August 19, 1976)), and in 1979 issued its statement of policy on aggregation of accounts and adoption of related reporting rules (1979 Aggregation Policy), 44 FR 33839 (June 13, 1979).

Subsequently, the Commission modified and updated speculative position limits by issuing a clarification of its hedging definition with regard to the ''temporary substitute'' and ''incidental'' tests (52 FR 27195 (July 20, 1987)) and guidelines regarding the exemption of risk-management positions from exchange-set speculative position limits in financial futures contracts. 52 FR 34633 (September 14, 1987). Moreover, in 1988, the Commission promulgated Commission rule 150.3(a)(4), an exemption from speculative position limits for the positions of multi-advisor commodity pools and other similar entities which use independent account controllers. The Commission subsequently amended Commission rule 150.3(a)(4), broadening its applicability to commodity trading advisors and simplifying and streamlining the application process. 56 FR 14308 (April 12, 1991).

In 1991, the Commission solicited public comment on, and subsequently approved, exchange requests for exemptions for futures and option contracts on certain financial instruments from the Commission rule 1.61 requirement that speculative position limits be specified for all contracts. 56 FR 51687 (October 15, 1991).

limits. These exemptions to rule 1.61 were established through a series of Commission interpretations. The Commission is also proposing to broaden its speculative position limit exemption under rule 150.3 for independent account controllers and to amend its aggregation policy.

II. Commission Speculative Position Limit Levels

In 1987, the Commission completely revised Commission speculative position limits. 52 FR 38914 (October 20, 1987). As part of these revisions, the Commission added Commission speculative position limits for soybean meal and soybean oil, which, because of an historical anomaly, previously were not included. The Commission also amended the structure and levels of the Commission speculative position limits. It restructured speculative position limits by establishing them by contract market, rather than generically by commodity. The Commission proposed generally to increase limit levels from the spot-month limits, which were not proposed to be increased, to progressively higher individual-month and all-futures-combined limits. However, the rules as promulgated generally did not provide for such stepped increases. Instead, the amended rules generally maintained the then existing structure of a uniform spot- and single-month level and only increased the all-months-combined level.[5]

In 1991, the Chicago Board of Trade (CBT), the New York Cotton Exchange (NYCE), the Kansas City Board of Trade (KCBT) and the Minneapolis Grain Exchange (MGE) petitioned the Commission to increase further the levels of Commission speculative position limits.[6] On August 2, 1991, the Commission published in the **Federal Register** notice of, and requested public comment on, these petitions for rulemaking. 56 FR 37049.

On April 13, 1992, the Commission proposed a number of revisions to the structure and levels of Commission speculative position limits. 57 FR 12766. The Commission proposed these revisions to the levels of the speculative position limits based upon two criteria: (1) the distribution of speculative traders in the markets; and (2) the size of open interest. Previously, the Commission had given little weight to the size of open interest in the contract in determining the appropriate speculative position limit level. The Commission noted, however, that the size of open interest and the distribution of speculative traders had not increased at the same rate over time. Accordingly, the Commission determined that, in proposing the new levels, both criteria should be taken into account. The Commission noted that:

> [t]his approach will permit speculative position limits to reflect better the changing needs and composition of the futures markets, while adhering to the policies of the Act and Commission Rule 1.61. Although the Commission in setting levels is proposing to place greater reliance on the criterion of percentage of open interest represented by a particular level than previously, it has always recognized that there is a range of acceptable limit levels [.] * * * even when relying on a single criterion * * *.

57 FR 12770.

In proposing these increases to the limit levels, the Commission reasoned that, as the total open interest of a futures market increased, speculative position limit levels could be raised. The Commission therefore applied the open interest criterion by using a formula that specified appropriate increases to the limit level as a percentage of open interest. Specifically, the Commission proposed combined futures and option speculative position limits for both a single month and for all months combined at the level of 10% of open interest up to an open interest of 25,000 contracts, with a marginal increase of 2.5% thereafter. It reasoned that such levels were ''not excessively large under the criteria of Commission rule 1.61.''[7] *Id.* The Commission also determined that this analysis did not apply to spot-month levels, which are ''based most appropriately on an analysis of current deliverable supplies and the history of various spot-month expirations.'' *Id.*

The Commission received 63 comments in response to the proposed rules.[8] Typically, commodity pool operators, commodity trading advisors and futures commission merchants strongly favored the amendments. Most agricultural producers and their representative organizations strongly opposed any increase to the speculative position limits. Others, however, recommended that the Commission proceed, but in a more cautious manner. In particular, they recommended that the Commission raise speculative position limits on a phased or test basis. These commenters advocated taking additional time to study the need for, and the possible effects of, further increasing speculative position limits, and in their view, the trial implementation of expanded speculative limits would provide such an additional opportunity.

Based on its consideration of the comments received and its favorable administrative experience with the rule's prior amendment, the Commission in April 1993 adopted interim final rules to Commission speculative position limits. These interim amendments increased the position limit levels by half of the increase originally proposed, in two steps. 58 FR 18057 (April 7, 1993). The first phase, which took effect on June 7, 1993, increased speculative position limits by combining the previously separate futures and option limits. The second phase, which took effect on March 31, 1994, increased the back-month speculative position limits halfway to the level originally proposed by the Commission.

When the Commission adopted the interim final rules, it provided notice that the comment period on the original proposed levels would be reopened in March 1994, coinciding with implementation of the second phase of the interim rules. The comment period

---

[5] However, the Commission did set stepped increases for the cotton contract. Those commenting on the grain and soybean complex limits opposed telescoping limits, in part, in an attempt to promote greater liquidity in the back months. In contrast, those commenting on the proposed speculative position limits in cotton did not object to the higher single-month limit level. 52 FR 38916.

In light of the strong preferences expressed by the commenters at that time, and the range of acceptable solutions which the data supported, the Commission acceded to the views of the commenters. Subsequently, as it expected, the Commission's experience monitoring both Commission and exchange-set limits with stepped increases was favorable. None of the adverse consequences hypothesized by the opposing commenters occurred.

[6] These petitions requested that the Commission amend its rules to increase Commission speculative position limits in the CBT corn, wheat, oats, soybeans, soybean oil, and soybean meal futures contracts, in the NYCE's cotton No. 2 futures contract, and in the KCBT's and MGE's wheat futures contracts. The CBT also requested that the Commission expand the current exemption for spread positions between months within the same crop year to an exemption for spread positions between any months, outside of the spot month, regardless of the crop year and to increase the overall level of this exemption. The CBT separately sought Commission approval for increases to the exchange-set speculative position limits on these commodities.

[7] Providing for a marginal increase to the speculative position limit of 2.5% was ''based upon the universal observation that the size of the largest individual positions in a market do not continue to grow in proportion with increases in the overall open interest of the market.'' *Id.* The Commission also proposed a minimum of 1,000 contracts.

[8] Those commenters included three futures exchanges; a broad-based futures industry association; four futures commission merchants; 26 commodity pool operators, commodity trading advisors or associations of such entities; 20 groups or firms representing agricultural interests; eight individual agricultural producers; and one exchange member. In addition, the proposed rules were a topic of discussion at the October 19, 1992, meeting of the Commission's Agricultural Advisory Committee.

was kept open for a year, closing on April 30, 1995. Anticipating that it would determine whether to adopt the levels originally proposed based upon trading experience under the interim rules, the Commission directed the Division of Economic Analysis (Division) to study the effects of the phased increases.

In April 1995, the Division reported to the Commission on the interim rule's effects. The report reviewed trading under both phases of the interim rules over a period of eighteen months and was based upon an analysis of extensive Commission and exchange data relating to individual and aggregate positions of reportable traders, as well as inter- and intra-day price series for the entire period of 1988 through 1994. The report concluded that overall the impact of the interim final rules on actual, observed large trader position was modest and that any changes in market performance were most likely attributable to factors other than changes in the rules.

Specifically, the report concluded that the phase 1 and phase 2 modifications of futures and option limits had little impact on the overall activities of large traders during the first 18 months of the interim final rules with relatively few speculative traders increasing the size of their positions above the previously permitted levels. The report further concluded that the periods of higher volatility and measurable changes in market liquidity observed in particular markets during the first 18 months of the interim rules appear to have been a result of rapidly-changing cash market conditions rather than the amended limits. Finally, the report concluded that there was no discernable negative impact on commercial use of the markets during the time period studied.

Only 13 comment letters were received during the post-phase 2 comment period, none from agricultural interests. Generally, all of the commenters supported increasing Commission speculative position limit levels as originally proposed. However, at that time concerns began to arise regarding the continued viability of the delivery provisions of the CBT's corn, soybean, and wheat futures contracts. The Commission directed its attention to resolving those surveillance-related concerns before further raising speculative position limit levels. Accordingly, the Commission took no further action on the proposed rules, and they remain pending.

The Commission recently reviewed open interest and trader position data to determine market changes since the Division's report to it following implementation of the phase 2 limits. With the exception of CBT oats, the markets' 1997 open interest substantially exceeded their 1994 open interest.[9] Although the Division's report concluded that the phase 1 increases to speculative position limits had little discernable impact on trader behavior, since then the number of large traders in these markets, the general size of their positions and the number of large traders holding positions above the phase 1 speculative position limits have increased. In addition, a number of traders now frequently hold positions greater than 80% of the current phase 2 all-months-combined level. These increases suggest that, under both of the criteria the Commission has applied in the past—size of traders' positions and open interest—expansion of the back month speculative position limits to the levels originally proposed is appropriate.

Accordingly, the Commission is reproposing to raise the back month speculative position limits to the levels it proposed initially. Consistent with its previous determination, the Commission is not proposing any change to spot-month limits.[10] The Commission has determined to seek public comment on the reproposed levels because commenters may have modified their views or additional persons may have formed an opinion during the extended period of time since the comment period closed. The following table compares the phase 2 speculative position limits now in effect for selected contracts to those that the Commission is reproposing.

SPECULATIVE POSITION LIMITS

[by contract] [11]

Contract	Current levels (as of March 31, 1994)			Reproposed levels		
	Spot month	Single month	All months	Spot month	Single month	All months
CHICAGO BOARD OF TRADE						
Corn	600	3,400	6,000	600	5,500	9,000
Oats	400	900	1,200	400	1,000	1,500
Soybeans	600	2,400	4,300	600	3,500	5,500
Wheat	600	2,100	3,200	600	3,000	4,000
Soybean Oil	540	2,000	3,100	540	3,000	4,000
Soybean Meal	720	2,200	3,400	720	3,000	4,000
MIDAMERICA COMMODITY EXCHANGE						
Corn	600	1,200	1,200	600	1,200	1,200
Soybeans	600	1,200	1,200	600	1,200	1,200
Wheat	600	1,200	1,200	600	1,200	1,200
MINNEAPOLIS GRAIN EXCHANGE						
Hard Red Spring Wheat	600	2,100	3,200	600	3,000	4,000
White Wheat	600	1,200	1,200	600	1,200	1,200

[9] In its interim final rulemaking, the Commission determined to maintain a parity of limit levels for wheat traded on the CBT, KCBT, and MGE. 58 FR 17979–179080. Accordingly, only data from the larger CBT wheat market were analyzed.

[10] The Commission originally proposed to increase the spot month limit in oats based upon changes in the cash market. *See* 57 FR at 12770, n. 17. The increases noted at the time have since reversed. Accordingly, the Commission is not proposing any change to the current spot month limit for oats.

SPECULATIVE POSITION LIMITS—Continued

[by contract] [11]

Contract	Current levels (as of March 31, 1994)			Reproposed levels		
	Spot month	Single month	All months	Spot month	Single month	All months
NEW YORK COTTON EXCHANGE						
Cotton No. 2	300	1,600	2,500	300	2,500	3,500
KANSAS CITY BOARD OF TRADE						
Hard Winter Wheat	600	2,100	3,200	600	3,000	4,000

[11] The limits are shown here in terms of the contract size traded on each exchange. The size of the speculative position limit being proposed is based upon the current contract size. Any subsequent change in contract size would require a conforming adjustment to the limit. For comparative purposes, the MCE limits are expressed here as though its contracts were for 5,000 bushels, the contract size traded on the CBT. MCE contracts are actually for 1,000 bushels, and its limits therefore would be five times the size shown on the table.

III. Exemptions From Required Exchange-set Speculative Position Limits

Although Commission rule 1.61 generally requires that all contract markets not subject to Commission speculative position limits impose exchange-set speculative position limits, the Commission over the years has approved a number of significant exemptions from this requirement. These exemptions were approved by the Commission under Commission rule 1.61(e), a broad exemptive provision enabling the Commission to exempt contract markets ''consistent with the purposes of this section.'' In each case, the Commission considered and granted such an exemption by approving a proposed rule change of a contract market.

The first of these exchange rule changes was submitted for Commission approval by the Chicago Mercantile Exchange (CME). In requesting public comment on the proposed rule change, the Commission explained that it was considering granting exemptive relief based upon one of the factors included in rule 1.61 for setting speculative positions limit levels—the ''breadth and liquidity of the cash market underlying each delivery month and the opportunity for arbitrage between the futures market and cash market in the commodity underlying the futures contract.'' *See*, 56 FR 51687, 51688 (October 15, 1991), citing Commission rule 1.61(a)(2). The Commission further explained that, ''(b)ased upon its over ten-years experience in administering rule 1.61, the Commission believes that exemptions for three classes of futures and option contacts with varying degrees of exchange supervision for each class could be appropriately considered * * *.''

These three classes were based upon the depth and liquidity of the underlying cash market and the ease of arbitrage between the futures and underlying cash market. The three classes were futures and option contracts on foreign currencies and futures and option contracts on two broad categories of financial instruments. The two categories for futures and option contracts on financial instruments were based upon the relative degree of liquidity in both the futures and option markets and in the cash market for the underlying instrument. The Commission subsequently added a fourth exemptive class, comprised of contracts for certain physical commodities. *See*, 57 FR 29064.

The Commission explained that it would exempt contracts in major foreign currencies from all of rule 1.61's requirements based upon their nearly inexhaustible deliverable supply, the very highly liquid underlying cash markets and the great ease of arbitrage between the cash and futures markets thereon. Contract markets which have been so exempted are the NYCE U.S. dollar index and NYFE foreign currencies.[12]

The second category of exempt contracts applies to futures and option contracts on financial instruments which exhibit the highest degree of liquidity in both the futures and cash markets, which are readily arbitraged. The Commission noted that for this class of contract the required speculative position limit could be replaced with a position accountability rule. Position accountability rules impose a level which triggers distinct reporting responsibilities by a trader at the request of the applicable exchange. The CME Eurodollar contracts and the CBT U.S. Treasury bond contracts were exempted under this category.[13]

The third class of exemptions was not contract markets on financial instruments having a highly liquid futures or cash market, but not of the same magnitude of liquidity as those in the highest class. For this class of contract, the position accountability rule should include, in addition to the specified reporting requirements, automatic consent of the trader not to increase further those positions which exceed the triggering level when so ordered by the exchange acting in its discretion.[14] *See*, 56 FR 51688–89. Examples of contract markets falling within this category include CBT U.S. Treasury notes and Eurodollars, NYCE 5-year U.S. Treasury notes, CME one-month LIBOR, and MCE U.S. Treasury bonds.

Finally, the Commission noted that certain contractors for tangible commodities such as precious metals and energy contracts are characterized by underlying cash markets with liquidity equivalent to or greater than certain of the financial futures and options which the Commission exempted. Because of the limitation on the delivery mechanisms of physically-delivered contracts, however, the Commission limited the exemption for such contracts on physical commodities to the deferred trading months, requiring retention of a spot-month speculative position limit. COMEX gold,

[12] THe CME and the Philadelphia Board of Trade (PBOT), as a matter of exchange choice, have not included their foreign currency contracts in this category, instead applying to them a position accountability rule.

[13] As noted above, the CME and the PBOT voluntarily apply a ''category 2'' position accountability rule to their foreign currency contracts.

[14] The Commission also noted that all such exemptions under rule 1.61(e) must include appropriate plans for the continued surveillance and exchange supervision of trading in these contract markets and for monitoring and review of the operation of the exemption.

silver, and copper contracts are examples of such contracts.[15]

These policies were first considered by the Commission in connection with specific exemptive requests by exchanges for existing contracts and, because they are based in part on the liquidity of the futures markets, are applicable only to existing markets. Except for several applications for designation of new foreign currency futures adoption contracts,[16] the Commission has approved few additional exemptions since granting the initial exemptive requests.[17] Moreover, the Commission has never formally promulgated these exceptions, nor has it incorporated these policies into Guideline No. 1, the Commission's guideline for exchange compliance with the requirements for contract market designation. As a consequence, the exemptions, which appear only in a number of **Federal Register** notices, are not readily accessible to those unfamiliar with Commission precedent.

Similarly, the open-interest criterion and numeric formula used by the Commission in its 1991 proposed amendment of Commission speculative position limits, which have provided the most definitive guidance by the Commission to date on acceptable levels for speculative position limits for tangible commodities, have not been promulgated as Commission rules.[18] Rather, the staff routinely has applied that formula (and its associated minimum levels) as a matter of administrative practice when reviewing proposed exchange speculative position limits under Commission rule 1.61. The staff examines exchange speculative position limit rules in connection with its review of applications for designation of futures and option contracts and of any subsequent proposed increases to those limits. Despite the formula's widespread use as a rule of thumb, it is not readily accessible in its present form.

The Commission is proposing to promulgate these informal policies as rules and, in a companion notice of proposed rulemaking located elsewhere in this edition of the **Federal Register**, is proposing conforming amendments to Guideline No. 1. Promulgating these policies within a single section of the Commission's rules will increase significantly their accessibility and clarify their terms.

As proposed by the Commission, the rules clarify several issues that the policies do not address. First, the proposed rules make clear that no speculative position limit or position accountability rule is required for designated contract markets in major foreign currencies. No such limitations are necessary because of the nearly inexhaustible deliverable supply of the major foreign currencies. Such foreign currencies are defined in the Commission's fast-track designation rule as a foreign currency ''for which there is no legal impediment to delivery and for which there exists a liquid cash market.'' 17 CFR 5.1(a)(2)(i). The Commission is proposing that contract markets in other, less liquid foreign currencies be treated as a futures or option contract on any other financial instrument or product.[19]

The remaining position accountability categories are proposed to apply only to existing futures and option contracts.[20] Consistent with the policies, under the proposed rule, the type of position accountability rule that applies to a particular contract market is determined by the liquidity of the futures market, the liquidity of the cash market and the Commission's oversight experience. The Commission is proposing, however, to restate the criteria with greater clarity and precision, particularly in measuring the necessary levels of liquidity of the futures and option markets.[21]

The Commission is proposing to quantify the necessary levels of futures market liquidity similar to its use of a formula to set (and to increase) speculative position limits. The formula is based upon a market's open interest, a measure of its overall relative size.[22] When substituting position accountability rules for speculative position limits, however, the liquidity of the futures and option market—measured by volume of trading—is also particularly important.[23] Accordingly, the Commission is proposing to restate the futures market liquidity criterion as a required minimum level of open interest combined with specified, increasing levels of trading volume. As the level of open interest increases, the extent of the exemptive relief increases as well.

Specifically, the Commission is proposing that contract markets be eligible for position accountability rules in the non-spot months if they have a minimum month-end open interest of 50,000 contracts and an average daily volume of 5,000 contracts, both measured in terms of all months combined for the most recent calendar year. Financial futures contracts, as well

[15] Although the Commission cited certain energy contracts as eligible for such treatment, the New York Mercantile Exchange (NYMEX) has not sought such treatment for its contract markets. COMEX was acquired by NYMEX and is now a division of NYMEX.

[16] Although the Commission exempted foreign currency contracts from the requirement for position accountability rules based upon the recognized liquidity of the underlying cash markets in the major foreign currencies, it has also approved, as a matter of exchange preference, ''category 2'' position accountability rules (a purely informational provision) for a number of such contracts. Futures and option contracts based on a non-major foreign currency, which are required to include position accountability rules, have been approved for ''category 4'' position accountability rules with spot-month speculative position limits.

[17] However, the Commission did approve for position accountability rules several newly designated contracts which are spreads between existing contracts on financial instruments that are the subject of contracts already having position accountability rules. These spread contracts, the CBT Yield Curve Spreads, were approved for the ''category 4'' position accountability exception.

[18] In addition, in reviewing applications for contract designation for tangible commodities, the staff has relied upon the Commission's formulation providing for a minimum level of 1,000 contracts for non-spot-month speculative position limits. Moreover, the Commission has routinely approved a level of 5,000 contracts for non-spot months in applications for designation of financial futures and energy contracts and that level has become a rule of thumb as a matter of administrative practice.

[19] Although the Commission approved an exchange proposal to apply ''category 2'' position accountability rules, which is a purely informational provision, to its futures and option contracts on major foreign currencies, the Commission does not require any position accountability rule for such contracts. Futures and option contracts on non-major foreign currencies are required to include a position accountability rule. Accordingly, the Commission approved a ''category 4'' position accountability exception (spot month limit and a provision enabling the exchange to order a trader not to increase further a position) for such a non-major foreign currency.

[20] As explained above, the only instances where position accountability rules were permitted in the absence of prior trading history was where the contracts were closely related to existing contracts for which position accountability rules had already been approved.

[21] The policy provided that position accountability could be based on either a liquid futures or cash market. The Commission is proposing to require that both the cash and futures markets be liquid. Accordingly, no futures contract can meet the proposed rule's requirement at the time of its initial designation and must first establish a trading history. The Commission will apply the rule prospectively, and any designated contracts or pending designation applications that have position accountability rules in place in reliance on the liquidity of the cash market alone may continue to rely on the policy. The Commission is seeking comment specifically on this proposed change, its proposed application only to designation applications filed after the effective date of the rule and whether the proposed rule would entail any adverse consequences.

[22] The rationale for this criterion is that, as a market's overall size grows, the size of the individual speculative positions that it can absorb and carry without adverse impact increases.

[23] A liquid market is one which has sufficient trading activity to enable individual trades coming to a market to be transacted without significantly affecting the price. A high degree of liquidity in the futures and option market better enables traders to arbitrage these markets with the underlying cash markets. Where the underlying cash markets in turn are very liquid and have extremely large deliverable supplies, the threat of market manipulation or distortions caused by large speculative positions is lessened. *See*, 56 FR at 51689.

as contracts on tangible commodities having the requisite cash market liquidity, are eligible for this proposed exemptive treatment. Financial futures contracts having a minimum month-end open interest of 50,000 contracts and an average daily trading volume of 25,000 contracts need not impose a spot month limit, but must have a position accountability rule that enables the exchange to order traders not to increase further their positions. Financial futures contracts having a minimum month-end open interest of 50,000 contracts and an average daily trading volume of 100,000 contracts may have a position accountability rule which only requires that traders provide specified information to the exchange if so ordered.

In addition to a liquid futures market, the Commission has looked to the liquidity in the underlying cash market and to its administrative experience in approving position accountability rules for particular contract markets. The Commission is not proposing to quantify an acceptable measure of cash market liquidity. Cash markets differ greatly, and many are decentralized, making it difficult to propose a uniform means of measuring their liquidity. Generally, however, in assessing the liquidity of cash markets, the Commission looks to the depth of the market and the tightness of bids and offers. The final criterion—administrative experience—is based upon a contract market's surveillance history, whether it has been subject to problem expirations or liquidations and whether its terms or conditions are consistent with current cash market conditions.

IV. Issues Relating to Aggregation and Exemptions for Independently Controlled Accounts

Section 4a of the Act provides that, in determining whether a position exceeds the speculative position limits,

> the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person.

The Commission and its predecessor agency have interpreted the ''held or controlled'' standard as applying both to ownership of positions or to control of trading decisions. Each aggregation criterion is applied separately.[24] However, beginning in 1979, the Commission has recognized a number of exceptions from the general principle. In its ''Statement of Policy on Aggregation of Accounts,'' 44 FR 83839 (June 13, 1979) (1979 Aggregation Policy), the Commission determined that a futures commission merchant (FCM) need not aggregate the discretionary trading accounts or customer trading programs through which a trader affiliated with, but independent of, the FCM directs trading of customer-owned positions or accounts. To demonstrate the trader's independence, the FCM must maintain only supervisory control over the trader, and trading decisions in the discretionary account or program must be made independently of trading decisions in all other accounts held by the FCM.[25] *Id.* at 33843

The 1979 Aggregation Policy was based in part on structural changes made by the futures industry to respond to the increased acceptance of professional management of trading accounts and the use of trading programs. *Id.* at 83840. Further responding to this continuing trend, the Commission in 1988 promulgated rule 150.3, 17 CFR 150.3, an exemption from speculative position limits for commodity pools or similar entities which use independent account controllers. 53 FR 41563 (October 24, 1988). Commodity pools, pension funds, and other similar entities are required to aggregate their positions as the owner of the trading accounts, even if those accounts are traded independently by multiple independent account controllers. Commission rule 150.3 exempted such entities which use independent account controllers from speculative position limits outside of the spot-month. The exemption permits the total positions of the trading entity or vehicle to exceed speculative limits during non-spot months, but requires that each independent account controller trading on the entity's behalf comply with the applicable limits. During the spot month, all positions of the entity are required to be aggregated and are subject to the spot-month speculative position limit level. Under the exemption as originally promulgated, those seeking exemptive treatment were required to file an application with the Commission and to document the independence of their account controllers.

In 1991, the Commission extended eligibility for this exemption to commodity trading advisors and greatly streamlined the application procedure. Subsequently, in 1992 the Commission made the exemption self-executing. 57 FR 44492 (September 28, 1992). Commenters on both the 1991 and 1992 amendments suggested that, in addition to commodity trading advisors, the exemption should be extended to others, including investment banks, other financial intermediaries, parent/affiliate firms, corporate divisions, commercial banks, merchant banks, and insurance companies. The Commission declined to do so, saying that it:

> is aware of no adverse market effects resulting from the exemptions granted so far.
>
> Nevertheless, * * * [t]he current exemption and the proposed expansion are limited to those who trade professionally for others. * * * The classes of trader suggested by commenters for inclusion in the exemption differ from this pattern. The Commission will undertake further expansion of the exemption after it has had an opportunity to assess the impact of the current expansion and has gained a better understanding of the characteristics of the market user who might benefit from, and their need for, such an exemption.

56 FR 14308, 14312 (April 9, 1991).

Commission rule 150.3 generally has worked well. It has provided flexibility to the markets, accommodating the continuing trend toward professional management of speculative trading accounts, while at the same time protecting the markets from the undue accumulation of large speculative positions owned by a single person or entity in the spot month. Since its amendment in 1991, most questions concerning rule 150.3 have related to its application to integrated financial services companies. The number and complexity of these companies has grown in the intervening years, a consequence of mergers and consolidation in the financial services sector. Such companies generally may include affiliated futures commission

[24] *See, e.g.,* Commission rule 18.01 (''holds, has a financial interest in or controls''). Using two independent criteria may lead to positions being aggregated in more than one manner. Although the Commission's large trader reporting system routinely aggregates positions reported by FCMs on the basis of the control criterion, Commission staff may direct FCMs to report particular accounts on the basis of ownership, as well. In addition, the Commission may require by special call that individual traders file large-trader reports for all positions which they own or control.

[25] The 1979 Aggregation Policy offered guidance on the criteria considered in determining whether the FCM exercises control over the trading decisions of the customer discretionary accounts or trading programs. These included the customer account agreement, advertising, the agreements between the FCM and its employee or other trader, the degree of supervision, the confidentiality of the program's trading decisions, reliance on the FCM for market information, and financial investment by the FCM in the program greater than 10% and common trading patterns. *Id.* at 33844.

merchants (FCMs), commodity pool operators, and non-Commission registrants which may also trade futures and option contracts for their own accounts. They may grant their affiliates or subsidiaries independent trading authority with appropriate safeguards to maintain the affiliates' independence and the confidentiality of the affiliates' trading decisions. However, presently only affiliated commodity pool operators and commodity trading advisors meet the rule's eligibility requirement.[26]

The Commission is proposing to amend rule 150.3 better to reflect the continuing trend to greater complexity in the structure of financial services companies. Such companies, as a matter of business preference, may provide their affiliates with independent trading authority and are structured in a manner which meets the policies of rule 150.3. The Commission is proposing to include the separately incorporated affiliates of commodity pool operator, commodity trading advisor or futures commission merchant as eligible entities for the exemptive relief of rule 150.3.[27]

The Commission is also proposing to expand the classes of entities which are eligible for the exemption in response to the continuing trend toward greater professional management of trading funds. Single-investor commodity pools or commodity pools having a very limited number of participants have been created as part of this trend. Often these pools are organized as limited partnerships, and in many cases, the limited partner or partners, who may also trade professionally, provide almost all of the trading capital. The operators of such commodity pools generally, by virtue of having fewer than fifteen participants in the pools and less than $200,000 in capital contributions, would be exempt from registration under Commission rule 4.13. As discussed in greater detail below, the Commission is of the view that the trading of these limited partnerships should not be disaggregated from trading by such a limited partner. However, because these commodity pools may provide for the pool's trading by an independent account controller, the Commission believes that they appropriately can be included within the exemption from speculative position limits for the non-spot month limits under Commission rule 150.3.

The Commission is also proposing to include with the exemption banks, trust companies, savings and loan associations, insurance companies and the separately incorporated affiliates of any of the above entities. These additional classes of eligible entity were suggested for inclusion by some commenters when the Commission last proposed to revise the rule 150.3 exemption. In light of the successful operation of the exemption during the intervening years, the Commission believes that it should now consider extending the exemption to these entities. Accordingly, the Commission is proposing that any of the above entities that grants its affiliates or subsidiaries independent trading authority, maintains only the supervisory authority over their trading activity consistent with its fiduciary, statutory and regulatory responsibilities[28] and creates a system of controls to ensure that it or its affiliates have no knowledge of the trading decisions of other of its affiliates can exceed speculative position limits outside of the spot month. During the spot month, all of the affiliates' accounts, except for those of an affiliated FCM qualifying under the 1979 Aggregation Policy, must be aggregated for speculative position purposes as positions belonging to a single owner.

The Commission is proposing to codify in rule 150.4 the substance of its policies on aggregation, particularly its 1979 Aggregation Policy. The substance of its aggregation policies currently is contained in rules 17.00 and 18.01, 17 CFR 17.00 and 18.01, which specify the manner of identifying accounts for reporting purposes. The Commission is of the view that its rules on aggregating positions for speculative limit compliance should be codified as such, rather than be drawn by inference from the Commission's large-trader reporting requirements.

In codifying these policies, the Commission also is proposing to amend the limited partner exception of Commission rule 18.01.[29] Commission rule 18.01 governs the Commission's reporting requirements and parallels the 1979 Aggregation standard. It defines an account owner as a person or entity having a 10% or greater financial interest in the account, except for limited partners. Limited partners had been exempt from definitions of ownership beginning with the Commission's predecessor agency, the Commodity Exchange Authority, based upon the assumption that limited partners by definition were required to be passive investors and were prohibited from exercising control over the trading activities of the partnership. However, the degree to which limited partners can be involved in the operation of a partnership varies under state law. Although limited partners generally are precluded from ''controlling'' the business of the partnership, they may not be precluded from being involved to some degree in the partnership's trading decisions.[30]

The Commission has become aware of, and concerned of, trading by single-investor commodity pools. In these commodity pools, a single limited partner may contribute virtually all of the pool's trading capital, relying upon the general partner to control trading in the account. Previously, persons with this type of ownership interest may not have aggregated the pool's positions with their own in reliance of the exception under Commission rule 18.01 for limited partners in a commodity pool.[31]

In light of the possibility that limited partners may be less than wholly passive investors, the likelihood that limited partners may be involved to some degree in the trading decisions of the partnership's trading activity rises as the overall number of limited partners in a commodity pool decreases, such as in the single or limited-number investor pool or when a small number of limited partners have a relatively dominant ownership interest. Accordingly, the Commission is proposing to require a limited partner, shareholder or other type of pool participant (such as a member of a limited liability company), to aggregate the pool's positions with the trader's other positions if the trader has as an ownership interest of 25% or

[26] FCMs have similar but not identical relief under the 1979 Aggregation Policy discussed above.

[27] Affiliated companies are generally understood to include one company that owns, or is owned by, another or companies that share a common owner.

[28] *See e.g.*, sections 2(a)(1)(A)(iii) and 4f(c) of the Act and Commission rule 166.3.

[29] As discussed above, the Commission is proposing to include within the exemption from speculative position limits under Commission rule 150.3 the operators of commodity pools which are exempt from registration under Commission rule 4.13.

[30] Section 303(b) of the Revised Uniform Limited Partnership Act provides in part that:

A limited partner does not participate in the control of the business * * * solely by * * * (2) consulting with and advising a general partner with respect to the business of the limited partnership. * * *

[31] Commission rule 18.01 provides, in part, that:

If any trader holds, has a financial interest in or controls more than one account, * * * all such accounts shall be considered as a single account for * * * the purpose of reporting. For the purpose of § 18.01, except for the interest of a limited partner or shareholder (other than the CPO) in a commodity pool, the term ''financial interest'' shall mean an interest of 10 percent or more in ownership or equity of an account.

greater in the pooled account or if the pool has ten or fewer participants.[32]

The Commission does not intend by this proposal to modify the general treatment of limited partners or shareholders in commodity pools, but rather intends to require aggregation by limited partners or shareholders in unusual or atypical arrangements.[33] The Commission requests comments specifically to address the typical organization for pools and whether levels proposed are appropriate for reaching only unusual ownership forms.

The Commission is proposing an additional revision to the existing limited partnership exemption to clarify its application to commodity pool operators. Currently, commodity pools are excluded from the limited partnership exemption. Accordingly, commodity pool operators which are also a limited partner have a financial interest which causes them to aggregate their positions if their ownership interest is ten percent or greater. This is apart from the requirement that they aggregate positions based upon trading control. The question has arisen whether the commodity pool operator's principals or affiliates, if investing as limited partners, are covered by the ten percent interest requirement. The Commission is of the view that principles and affiliates of the commodity pool operator were intended to be treated under the rule the same as the commodity pool operator itself. This would be consistent with the explicit treatment of FCMs investing in customer trading programs or pools under the 1979 Aggregation Policy. The Commission is proposing to amend the limited partner exception to make explicit its understanding of the rule's application to the principals and affiliates of the pool operator.

III. Other Matters

A. Paperwork Reduction Act

When publishing proposed rules, the Paperwork Reduction Act of 1995 (Pub. L. 104–13 (May 13, 1996)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act, the Commission, through this rule proposal, solicits comment to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) enhance the quality utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of the information on those who are to respond 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 Commission has submitted the proposed rule and its associated information collection requirements to the Office of Management and Budget. The proposed rules are part of two approved information collections. The burdens associated with these rules are as follows:

COLLECTION NUMBER
[3038–0013]

Average burden hours per response.	6
Number of respondents	12
Frequency of response	On occasion

COLLECTION NUMBER
[3038–0009]

Average burden hours per response.	4.74
Number of respondents	3709
Frequency of response	On occasion

Persons wishing to comment on the information which would be required by this proposed/amended rule should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st St N.W., Washington, DC 20581, (202) 418–5160.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously determined that large traders are not small entities for purposes of the RFA.[34] The Commission believes that the proposed rule amendments to raise Commission speculative position limits would only impact large traders. In addition, the Commission is of the opinion that the proposed amendments to Commission rule 150.3, under which certain eligible entities will be exempted from speculative limits (except in the spot-month) would apply exclusively to large traders, as would the proposal to codify in rule 150.4 its policies on aggregation. Similarly, the Commission's proposal to aggregate the positions of participants in pooled accounts with a greater than 25 percent ownership interest in the accounts is not expected to impact a significant number of small entities. The Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. The certification is based on the fact that the proposed rules will lift speculative limits levels, extend exemptive relief from speculative limits (except in the spot-month) to certain eligible entities and codify the Commission policies on aggregation, including its rules on aggregating positions for speculative limit compliance. The proposed rules permitting such transactions subject to the specified conditions, therefore, remove a burden for all entities, regardless of size.

List of Subjects

17 CFR Part 1

Brokers, Commodity futures, Consumer protection, Reporting and recordkeeping requirements, Segregation requirements.

17 CFR Part 17

Brokers, Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 18

Brokers, Commodity futures, Reporting and recordkeeping requirements.

[32] It should be noted that, while such positions must be aggregated, the Commission has also proposed to include such entities within the exemption of rule 150.3. Accordingly, where the limited partners in fact treat the partnership as an independent trader, they qualify for an exemption from speculative position limits for non-spot months. During the spot month, however, the limited partners or shareholders would be required to aggregate the partnership positions.

[33] The Commission is proposing to clarify that participants in additional categories of limited-liability business organizations, such as members of limited liability companies, for the purpose of these rules, are treated the same as limited partners or shareholders.

[34] 47 FR 18618 (April 30, 1982).

17 CFR Part 150

Agricultural commodities, Bona fide hedge positions, Position limits, Spread exemptions.

In consideration of the foregoing, and pursuant to the authority contained in the Act, and in particular sections 2(a)(1), 2(a)(2), 4a, 4c, 4f, 4g, 4i, 4n, 5, 5a, 6b, 6c, 8a, and 15, 7 U.S.C. 2, 6a, 6c, 6f, 6g, 6i, 6n, 7, 7a, 12a, 13a, 13a–1, and 19, the Commission hereby proposes to amend parts 1, 17, 18, and 150 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–l, 16, 16a, 19, 21, 23, and 24.

2. Section 1.61 is proposed to be removed and reserved.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

3. The authority citation for part 17 continues to read as follows:

Authority: 7 U.S.C. 6a, 6d, 6f, 6g, 6i, 7, and 12a.

4. Section 17.00 is proposed to be amended by renumbering paragraph (b)(1) as (b) and revising it, by removing paragraphs (b)(2) and (c), by renumbering paragraphs (b)(1)(i) and (b)(1)(ii) as (b)(1) and (b)(2), respectively, and by adding paragraph (b)(3), to read as follows:

§ 17.00 Information to be furnished by futures commission merchants, clearing members and foreign brokers.

* * * * *

(b) *Interest in or control of several accounts.* Except as otherwise instructed by the Commission or its designee and as specifically provided in § 150.4 of this chapter, if any person holds or has a financial interest in or controls more than one account, all such accounts shall be considered by the futures commission merchant, clearing member or foreign broker as a single account for the purpose of determining special account status and for reporting purposes. For purposes of this section, the following shall apply:

(1) * * *

(3) *Account ownership*—Multiple accounts owned by a trader shall be considered a single account as provided under § § 150.4(b), (c) and (d) of this chapter.

PART 18—REPORTS BY TRADERS

5. The authority citation for part 18 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 12a, and 19; 5 U.S.C. 552 and 552(b) unless otherwise noted:

6. Section 18.01 is proposed to be revised to read as follows:

§ 18.01 Interest in or control of several accounts.

If any traders holds, has a financial interest in or controls positions in more than one account, whether carried with the same or with different futures commission merchants or foreign brokers, all such positions and accounts shall be considered as a single account for the purpose of determining whether such trader has a reportable position and, unless instructed otherwise in the special call to report under § 18.00 of this part, for the purpose of reporting.

PART 150—LIMITS ON POSITIONS

6. The authority citation for part 150 continues to read as follows:

Authority: 7 U.S.C. 6a, 6c and 12a(5).

7. In § 150.1 the introductory text of paragraph (d), and paragraphs (d)(2), (e)(2) and (e)(5) are proposed to be revised to read as follows:

§ 150.1 Definitions.

* * * * *

(d) *Eligible entity* means—

A commodity pool operator, the operator of a trading vehicle which is excluded or who itself has qualified for exclusion from the definition of the term ''pool'' or commodity pool operator,'' respectively, under § 4.5 of this chapter; the limited partner or shareholder in a commodity pool the operator of which is exempt from registration under § 4.13 of this chapter; a commodity trading advisor; a bank or trust company; a savings and loan association; an insurance company; or the separately incorporated affiliates of a futures commission merchant or of any of the above entities:

(1) * * *

(2) Which maintains: (i) only such minimum control over the independent account controller as is consistent with its fiduciary responsibilities and necessary to fulfill its duty to supervise diligently the trading done on its behalf; or (ii) if a limited partner or shareholder of a commodity pool exempt from registration under § 4.13 of this chapter, only such limited control as is consistent with its status.

(e) *Independent account controller* means a person—

(1) * * *

(2) Over whose trading the eligible entity maintains only such minimum control as is consistent with its fiduciary responsibilities to fulfill its duty to supervise diligently the trading done on its behalf or as is consistent with such other legal rights or obligations which may be incumbent upon the eligible entity to fulfill;

(3) * * *

(5) Who is registered as a futures commission merchant, introducing broker, commodity trading advisor or an associated person of any such registrant or a commodity pool operator that is exempt from registration under § 4.13 of this chapter.

8. Section 150.2 is proposed to be revised to read as follows:

§ 150.2 Position limits.

No person may hold or control positions, separately or in combination, net long or net short, for the purchase or sale of a commodity for future delivery or, on a futures-equivalent basis, options thereon, in excess of the following:

SPECULATIVE POSITION LIMITS

[By contract]

Contract	Limits by number of contracts		
	Spot month	Single month	All months
CHICAGO BOARD OF TRADE			
Corn	600	5,500	9,000
Oats	600	1,000	1,500

SPECULATIVE POSITION LIMITS—Continued

[By contract]

Contract	Limits by number of contracts		
	Spot month	Single month	All months
Soybeans	600	3,500	5,500
Wheat	600	3,000	4,000
Soybean Oil	540	3,000	4,000
Soybean Meal	720	3,000	4,000
MIDAMERICA COMMODITY EXCHANGE			
Corn	3000	6000	6000
Oats	2000	2000	2000
Soybeans	3000	6000	6000
Wheat	3000	6000	6000
Soybean Meal	800	800	800
MINNEAPOLIS GRAIN EXCHANGE			
Hard Red Spring Wheat	600	3,000	4,000
White Wheat	600	1,200	1,200
NEW YORK COTTON EXCHANGE			
Cotton No. 2	300	2,500	3,500
KANSAS CITY BOARD OF TRADE			
Hard Winter Wheat	600	3,000	4,000

9. Section 150.4 is proposed to be revised to read as follows:

§ 150.4 Aggregation of positions.

(a) *Positions to be aggregated.* The position limits set forth in § 150.2 of this part shall apply to all positions in accounts for which any person by power of attorney or otherwise directly or indirectly holds positions or controls trading or to positions held by two or more persons acting pursuant to an expressed or implied agreement or understanding the same as if the positions were held by, or the trading of the position were done by, a single individual.

(b) *Ownership of accounts.* For the purpose of applying the position limits set forth in § 150.2, except for the ownership interest of limited partners or shareholders as set forth in paragraph (c) of this section, any trader holding positions in more than one account, or holding accounts or positions in which the trader by power of attorney or otherwise directly or indirectly has a 10 percent or greater ownership or equity interest, must aggregate all such accounts or positions.

(c) *Ownership by limited partners, shareholders or other pool participants.* For the purpose of applying the position limits set forth in § 150.2, any trader having a 25 percent or greater ownership or equity interest in an account or positions as a limited partner, shareholder or other category of pool participant must aggregate those accounts or positions with all other accounts or positions owned or controlled by the trader; *Provided however,* that:

(1) A limited partner, shareholder or other pool participant that is also a principal or affiliate of the commodity pool operator must aggregate the pooled account or positions with all other accounts or positions owned or controlled by that trader if the trader's ownership or equity interest in the pooled accounts or positions is 10 percent or greater; or

(2) Each limited partner, shareholder or other pool participant having an ownership interest in a pooled account or positions with ten or fewer partners or shareholders must aggregate the pooled account or positions with all other accounts or positions owned or controlled by the trader if the trader's ownership or equity interest in the pooled accounts or positions is 10 percent or greater.

(d) *Trading Control by Futures Commission Merchants.* The position limits set forth in § 150.2 of this part shall be construed to apply to all positions held by a futures commission merchant in a discretionary account, or in an account which is part of, or participates in, or receives trading advice from a customer trading program of a futures commission merchant, or any of the officers, partners, or employees of such futures commission merchant, unless:

(1) A trader other than the futures commission merchant directs trading in such an account;

(2) The futures commission merchant maintains only such minimum control over the trading in such an account as is necessary to fulfill its duty to supervise diligently trading in the account; and

(3) Each trading decision of the discretionary account or the customer trading program is determined independently of all trading decisions in other accounts which the futures commission merchant holds, has a financial interest of 10 percent or more in, or controls.

10. New § 150.5 is proposed to be added to read as follows:

§ 150.5 Exchange-set speculative position limits.

(a) *Exchange limits.* Each contract market, as a condition of designation under part 5, appendix A of this chapter, shall by bylaw, rule, regulation, or resolution limit the maximum number of contracts a person may hold or control, separately or in combination, net long or net short, for the purchase or sale of a commodity for future delivery or, on a futures equivalent basis, options thereon. This section shall not apply to a contract market for

which position limits are set forth in § 150.2 of this part or for a futures or option contract market on a major foreign currency for which there is no legal impediment to delivery and for which there exists a highly liquid cash market. Nothing in this section shall be construed to prohibit a contract market from fixing different and separate position limits for different types of futures contracts based on the same commodity, different position limits for different futures or for different delivery months, or from exempting positions which are normally known in the trade as ''spreads, straddles, or arbitrage,'' or from fixing limits which apply to such positions which are different from limits fixed for other positions.

(b) *Levels at designation.* At the time of its initial designation, a contract market must provide for speculative position limit levels as follows:

(1) The spot month limit level for physical delivery contracts must be no greater than one-quarter of the estimated spot month deliverable supply calculated separately for each month to be listed and for cash-settled contracts based on a small or not highly liquid underlying cash market must be at a level that will tend to prevent or diminish price manipulation;

(2) Individual non-spot month or all-months-combined levels must be no greater than 1,000 contracts for tangible commodities other than energy products;

(3) individual non-spot month or all-months-combined levels must be no greater than 5,000 contracts for energy products and non-tangible commodities, including contracts on financial products.

(c) *Adjustments to levels.* Twelve months after a contract market's initial listing for trading, or an any time thereafter, contract markets may adjust their speculative limit levels as follows:

(1) The spot month limit level for physical delivery contracts must be no greater than one-quarter of the estimated spot month deliverable supply calculated separately for each month to be listed and for cash-settled contracts based on a small or not highly liquid underlying cash market must be at a level that will tend to prevent or diminish price manipulation; and

(2) Individual non-spot month or all-months-combined levels must be no greater than 10 percent of the average combined futures and delta-adjusted option month-end open interest for the most recent calendar year up to 25,000 contracts with a marginal increase of 2.5 percent thereafter, or be based on position sizes customarily held by speculative traders on the contract market, which shall not be extraordinarily large relative to total open positions in the contract, the breadth and liquidity of the cash market underlying each delivery month and the opportunity for arbitrage between the futures market and cash market in the commodity underlying the futures contract.

(d) *Hedge exemption.* (1) No exchange by law, rule regulation, or resolution adopted pursuant to this section shall apply to bona fide hedging positions as defined by a contract market in accordance with § 1.3(z)(1) of this chapter. *Provided,* that the contract market may limit bona fide hedging positions or any other positions which have been exempted pursuant to paragraph (e) of this section which it determines are not in accord with sound commercial practices or exceed an amount which may be established and liquidated in an orderly fashion.

(2) Traders must apply to the contract market for exemption from its speculative position limit rules. In considering whether to grant such an application for exemption, contract markets must take into account the factors contained in paragraph (d)(1) of this section.

(e) *Trader accountability exemption.* Tweleve months after a contract market's initial listing for trading, or at any time thereafter, contract markets may submit for Commission approval under section 5a(a)(12) of the Act and § 1.41(b) of this chapter, a bylaw, rule, regulation, or resolution, substituting for the position limits required under paragraphs (a), (b) and (c) of this section, an exchange rule requiring traders to be accountable for large positions as follows:

(1) For futures and option contracts on a financial instrument or product having an average month-end open interest of 50,000 contracts and an average daily trading volume of 100,000 contracts and a very highly liquid cash market, an exchange bylaw, regulation or resolution requiring traders to provide information about their position upon request by the exchange;

(2) For futures and option contracts on a financial instrument or product or on an intangible commodity having an average month-end open interest of 50,000 and an average daily volume of 25,000 contracts and a highly liquid cash market, an exchange bylaw, regulation or resolution requiring traders to provide information about their position upon request by the exchange and to consent to halt increasing further the trader's positions if so ordered by the exchange;

(3) For futures and option contracts on a tangible commodity, including but not limited to metals, energy products, or international soft agricultural products, having an average month-end open interest of 50,000 contracts and an average daily volume of 5,000 contracts and a liquid cash market, an exchange bylaw, regulation or resolution requiring traders to provide information about their position upon request by the exchange and to consent to halt increasing further the trader's positions if so ordered by the exchange, *provided, however,* such contract markets are not exempt from the requirement of paragraphs (b) or (c) that they adopt an exchange bylaw, regulation or resolution setting a spot month speculative position limit with a level no greater than one-quarter of the estimated spot month deliverable supply;

(4) For purposes of this paragraph, trading volume and month-end open interest shall be calculated based upon the futures contract and its related option contract, on a delta-adjusted basis, for all trading months listed during the most recent twelve month period.

(f) *Other exemptions.* Exchange speculative position limits adopted pursuant to this section shall not apply to any position acquired in good faith prior to the effective date of any bylaw, rule, regulation, or resolution which specifies such limit or to a person that is registered as a futures commission merchant or as a floor broker under authority of the Act except to the extent that transactions made by such person are made on behalf of or for the account or benefit of such person. In addition to the express exemptions specified in this section, a contract market may propose such other exemptions from its position limits consistent with the purposes of this section and shall submit such rules for Commission review under section 5a(a)(12) of the Act and § 1.41(b) of this chapter.

(g) *Aggregation.* In determining whether any person has exceeded the limits established under this section, all positions in accounts for which such person by power of attorney or otherwise directly or indirectly controls trading shall be included with the positions held by such person; such limits upon positions shall apply to positions held by two or more person acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by a single person.

Issued by the Commission this 13th day of July, 1998, in Washington, D.C.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–19114 Filed 7–16–98; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 5

Economic and Public Interest Requirements for Contract Market Designation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: Commodity Futures Trading Commission (''Commission'') is proposing revisions to its Guideline on Economic and Public Interest Requirements for Contract Market Designation, 17 CFR Part 5, Appendix A (''Guideline No. 1''). Guideline No. 1 details the information that an application for contract market designation should include in order to demonstrate that the contract market meets the economic requirements for designation. The Commission recently promulgated fast-track review procedures to reduce the time for Commission review of such applications. In furtherance of these streamlining efforts, the Commission is proposing that Guideline No. 1 itself be revised to reduce any unnecessary burdens associated with the designation application.

Specifically, the Commission is proposing to reorganize Guideline No. 1 into several specific application forms, making use to the extent possible of a checklist or chart format. Moreover, the Commission is clarifying that a portion of the application may make use of third-party generated materials. In addition, the Commission is clarifying the review standards for several of the designation requirements. The Commission is also proposing that a new appendix be added to Part 5 that would specify the information that should be included by a foreign board of trade seeking no-action relief to offer and to sell in the United States a futures contract on a securities index traded on that exchange.

DATES: Comments must be received by September 15, 1998.

ADDRESSES: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521 or, by e-mail to secretary@cftc.gov. Reference should be made to ''Revisions to Guideline No. 1.''

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Richard A. Shilts, Director, Market Analysis Section or Kimberly A. Browning, Attorney/Advisor, Division of Economic analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5260. E-mail: [PArchitzel@cftc.gov], [RShilts@cftc,gov] or [KBrowning@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Background

The requirement that boards of trade demonstrate that they meet specified conditions in order to be designated as a contract market has been a fundamental tool of federal regulation of commodity futures exchanges since the Futures Trading Act of 1921, Pub. L. No. 67–66, 42 Stat. 187 (1921).[1] Currently, the statutory requirements for designation are found in Sections 5 and 5a of the Commodity Exchange Act (Act) and, additionally, for indexes of securities, in Section 2(a)(1)(B) of the Act. Designated contract markets must provide for the prevention of dissemination of false information (Section 5(3) of the Act); must provide for the prevention of price manipulation (Section 5(4) of the Act); must provide for delivery periods which will prevent market congestion (Section 5A(a)(4) of the Act); and must permit delivery on the contract of such grades, at such points and at such quality and locational differentials as will tend to prevent or to diminish market manipulation (Section 5a(a)(10) of the Act).[2] Included among these provisions is the general requirement of Section 5(7) of the Act that trading in a proposed contract not be contrary to the public interest. The contract market must meet these requirements both initially and on a continuing basis.[3]

The Commission, as an aid to the exchanges, has provided guidance in meeting these statutory requirements. In 1975 the newly formed Commission, in one of its earliest actions, issued its Guideline on Economic and Public Interest Requirements for Contract Market Designation, 40 FR 25849 (1975) (''Guideline No. 1'').

Subsequently, the Commission revised this guideline, publishing it as Appendix A to Part 5 of the Code of Federal Regulations. 47 FR 49832 (November 3, 1982). As revised in 1982, Guideline No. 1 was updated to address proposed innovations in the trading of futures contracts, including in particular, futures contracts on financial instruments and on various indexes and cash-settled futures contracts. Experience has demonstrated that the guideline has been adaptable and flexible, facilitating the designation of a wide range of innovative products.

Guideline No. 1 was again revised in 1992. 57 FR 3518 (January 30, 1992). The 1992 revisions streamlined the designation application for both futures and option contract markets. Under the 1992 revisions, the standard of review for specified terms and conditions of proposed contract market designations under Sections 5 and 5a of the Act was clarified. Moreover, the 1992 revisions eliminated unnecessary and redundant materials by requiring that an application for designation of a futures contract include a cash-market description only when the proposed contract differs from a currently designated contract and that it need justify only individual contract terms that are different from terms which

[1] Designation as a contract market under the 1921 Act was contingent upon a board of trade's providing for the prevention of manipulative activity and the prevention of dissemination of false information, upon providing for certain types of recordkeeping and for admission into exchange membership of cooperative producer associations, and upon location of the contract market at a terminal cash market. *See,* §§ 5(a), (b), (c), (d) and (e) of the Futures Trading Act of 1921. Although the constitutionality of this Act was successfully challenged as an improper use of the Congressional taxing power in *Hill* v. *Wallace,* 259 U.S. 44 (1922), all subsequent legislation regulating the futures industry was patterned after this statutory scheme.

[2] The Act further requires, as a condition for contract market designation that the contract market, *inter alia:* be located at a terminal cash market or provide for terms and conditions as approved by the Commission (Section 5(1) of the Act); provide for various forms of recordkeeping (Sections 5(2) and 5a(a)(2) of the Act); permit the membership of cooperative associations (Section 5(5) of the Act); provide for compliance with Commission orders (Section 5(6) of the Act); submit its rules to the Commission (Sections 5a(a)(1) and 5a(a)(12) of the Act); provide that the terms of the contracts conform to United States commodity standards or those adopted by the Commission (Section 5a(a)(6) of the Act); accept warehouse receipts issued under United States law (Section 5a(a)(3) of the Act); and enforce exchange rules (Section 5a(a)(8) of the Act).

[3] Generally, the burden of demonstrating compliance rests with the contract market. Section 6 of the Act provides, in part, that:

Any board of trade desiring to be designated a ''contract market'' shall make application to the Commission for such designation and accompany the same with a showing that it complies with the above conditions, and with a sufficient assurance that it will continue to comply with the above requirements.

previously have been approved by the Commission. 57 FR 3521.[4]

In addition, the 1992 revisions introduced the use of a new checklist-style format for applications for designation of option contracts. The checklist application for option contracts has reduced the required filing of redundant or otherwise unnecessary information, resulting in designation applications which are clearer and more concise. Presumably, the exchanges have thereby realized savings in both the time and costs associated with filing an application. Moreover, the uniform format has enabled the Commission to review such checklist applications in a more timely and efficient manner. Applications for designation of options on futures contracts, however, are uniquely amenable to such a checklist format because option contract terms tend to be highly uniform and the majority of issues arise in connection with the designation of the underlying futures contract.

In April 1997, new Commission Rule 5.1 establishing fast-track procedures for Commission review and approval of applications for contract market designation became effective. 62 FR 10434 (March 7, 1997). That rule creates a streamlined and speedy alternative review process for Commission consideration of designation applications, reducing unnecessary regulatory burdens on exchanges while also preserving the opportunity for public participation where needed and fulfillment of the Commission's oversight responsibilities. Under the fast-track review procedures, applications for designation of certain cash-settled futures and option contracts are deemed to be approved ten days after receipt, unless the exchange is notified otherwise. Certain other applications are deemed approved 45 days after receipt absent contrary notification. Since implementing fast-track review procedures in April 1997, 45 contracts have been approved by the Commission under this rule, 18 under the 10-day procedure and 27 under the 45-day procedure.[5]

The Commission, in promulgating the fast-track review rules, indicated its intent broadly to reexamine the form and content requirements of Guideline No. 1, including consideration of the possible applicability of an option-style checklist to applications for designation of proposed futures contracts.[6] The Commission has noted that ''[i]mplementation of fast-track review and approval procedures, separately and together with the planned revision of the format and content requirements for designation applications, should result in significantly streamlining the procedures and regulatory requirements associated with the current contract designation process,'' 62 FR 10435, and that these initiatives should permit the exchanges greater flexibility to compete with foreign exchange-traded products and with both foreign and domestic over-the-counter transactions while maintaining the basic protection embedded in the Act. 61 FR 59390 (November 22, 1996).

II. Proposed Revisions to Guideline

A. Proposed Changes to the Guideline's Format

Based upon its experience in administering the current guideline and the new fast-track procedures, the Commission is proposing to revise Guideline No. 1 in several important respects. First, the Commission is proposing to streamline Guideline No. 1 by further reducing the required paperwork and by further clarifying the information required to be included. In this regard, as discussed above, the Commission has observed the success of the checklist application for option contracts implemented in 1992 and believes that a similar, but modified, framework using a chart rather than a checklist can be used for applications for designation of futures contracts.

Specifically, the Commission is proposing to reorganize the contents of the current guideline to address applications for four different types of contracts: (1) physical delivery futures; (2) cash-settled futures; (3) options on futures; and (4) options on physicals. Except for options on physicals, the requirements for each separate application are self-contained and include the information relevant to demonstrating compliance with the designation standards for that type of contract. The information required is largely the same as under the current guideline, but is presented in a clearer, more focussed format which includes the use of charts. Information for option contracts will continue to be provided by checklist. Moreover, the Commission is proposing to clarify certain standards for review which have envolved based upon administrative experience and to clarify that exchanges may fulfill the required cash-market description with information developed by third parties. The Commission intends to make this format available to the exchanges electronically and to encourage exchanges to file electronically to reduce further the paperwork burden associated with the application process. These proposed revisions are discussed in greater detail below.

1. Cash Market Overview

Currently, exchanges are required to include a cash market description in their designation application. 17 CFR Part 5, Appendix A(a)(1). The Commission is not proposing to amend this requirement—each application (except for options on futures) would still require the inclusion of such an overview. However, the Commission is proposing to amend Guideline No. 1 to recognize explicitly the acceptability of a variety of materials in fulfillment of this requirement. Under current practices, exchanges typically produce their own specific cash-market descriptions. The Commission notes, however, that the exchanges presently are not precluded from doing otherwise and that exchanges have on occasion submitted cash market descriptions which included third-party materials.[7]

To reduce the burden on the exchanges in satisfying the guideline's cash-market overview standards, the Commission is proposing to clarify that exchanges need not submit staff-prepared documents and that they may

[4] In conjunction with these revisions to the application for contract market designation, the Commission also modified many of its internal procedures to expedite the review and approval of new contracts and proposed amendments to existing contracts. These include, for example, a policy to notify the public of the availability of proposed contract terms for comment by publication in the **Federal Register** within one week of receipt of an application. In addition, under these procedures, substantive issues are identified and communicated informally to the exchange very shortly after receipt, permitting a prompt resolution. The review and approval of new contracts usually is completed shortly after the **Federal Register** public comment period ends or as soon as the exchange makes the modifications necessary to address a proposed contract's deficiencies. With these changes, the total review time for new contracts declined significantly.

[5] An additional 10 contracts were approved under non-fast-track review procedures. These included five equity index contracts, which were not eligible for fast-track approval because of the statutory requirement of review by the U.S. Securities and Exchange Commission (SEC), one contract that was approved under regular procedures before the end of the fast-track period, and four contracts that were processed under regular procedures at the request of the submitting exchange.

[6] Guideline No. 1 applies only to the economic requirements that must be met in order to be designated as a contract market. Additional requirements are found in the Commission's Guideline No. 2, 1 Comm. Fut. L. Rep (CCH) ¶6430. These relate to the contract market's program for compliance with its self-regulatory responsibilities. Generally, the review of these issues is most significant in connection with the first application for contract designation from a particular board of trade.

[7] For example, some exchanges have submitted background studies on proposed contracts that were prepared by outside consultants.

submit cash-market descriptions based not only on materials generated by their staffs, but also on materials obtained from other sources. Such materials may be developed for an exchange by outside sources during a feasibility study of a proposed contract, as part of the exchange's development and consideration of a proposal or as part of its new product marketing effort. In this regard, as proposed to be revised, Guideline No. 1 explicitly would state that a cash-market description may include:

Existing studies by industry trade groups, academics, governmental bodies or other entities; reports of consultations; or other materials which provide a description of the underlying cash market. These materials may be submitted in addition to, or in lieu of, information developed by the board of trade.

2. Charts Relating to Individual Contract Terms and Conditions

The current guideline requires exchanges to explain how each major term of a proposed contract, except for those identical to terms already approved by the Commission, is consistent with cash market practices or to justify the reason why the contract term appropriately is inconsistent with such practices. Exchanges submit this explanation or justification in narrative form. To further streamline the application process, the Commission is proposing that, in lieu of such a narrative description, an exchange may complete a chart to provide the required information. The proposed chart format will reduce the amount of verbiage and the overall length of designation applications.

The proposed chart is a template enumerating the significant contract terms and conditions typically contained in most contracts. In view of the diverse nature of commodities for which futures contracts may be developed, however, the template may be modified as necessary to reflect the nature of the particular commodity or the contract's specific terms and conditions. Also, to the extent that a proposed contract includes additional terms and conditions defining the economic characteristics of the underlying commodity, the board of trade may modify the form as appropriate. For example, if a contract provides for more than one quality specification under commodity characteristics (*e.g.*, a grade standard as well as a weight specification), the board of trade may add a separate line item to address each commodity characteristic separately. For line items in the chart that are not applicable to the proposed contract, the board of trade should simply indicate ''N.A.''

The proposed chart would require that an exchange include a brief description of the contract's major terms and conditions. Where the term is consistent with prevailing cash market practices, column 4 may be completed by providing a very brief statement as to how the term or condition comports with cash practices. However, where the term or condition does not comport with cash market practices, a more extensive discussion is required showing why the provision is necessary or appropriate for the hedging or pricing utility of the contract and the overall effect of the provision on deliverable supplies. Consistent with current requirements, no such justification of an individual term or condition would be required when that term or condition is the same as one already approved by the Commission. For such contract terms, the board of trade should reference in column 2 of the chart the rule number or other description of the original approved provision.

In keeping with current requirements, the application also requires an exchange to specify and to justify speculative position limits as required under the criteria of Commission rule 1.61, 17 CFR 1.61. The Commission is proposing that this requirement also be fulfilled by completion of a chart. However, the Commission is reviewing generally its speculative position limit policies and may propose further revisions to this section of Guideline No. 1 if it becomes appropriate in light of subsequent revisions to its speculative position limit policies.

3. Clarification of Review Standards

Central to an application for designation is an exchange's demonstration that the proposed contract will not be susceptible to price manipulation or distortion. For physical delivery contracts, this requires a demonstration that the deliverable supplies provided under the contract's terms are adequate, and for cash-settled contracts, this requires that the cash price series to be used for settlement is reliable. In light of the importance of these issues to a designation application, the Commission is proposing clarification of these requirements in the guideline.

i. Adequacy of deliverable supply. Exchanges are required to demonstrate that proposed contracts provide for deliverable supplies that will not be conducive to price manipulation or distortion. A requirement that an exchange include in its designation application an analysis of the adequacy of deliverable supply including an estimate of the deliverable supplies for the delivery months specified in the proposed contract is implicit under the current guideline. The Commission is proposing to clarify this requirement by requiring explicitly designation applications include an estimate of deliverable supplies for the specified delivery months of a proposed contract.

Specifically, the Commission is proposing that applications for designation of physical delivery futures contracts include within a separate chart of quantitative estimate of expected deliverable supplies and a description of the methodology used to derive the estimate. For commodities with seasonal supply or demand characteristics, the deliverable supply analysis should be based on the delivery month(s) when potential supplies typically are at their lowest levels. The estimate should be based on statistical data when reasonably available covering an historical period that is representative of actual patterns of production and consumption of the commodity. If data are taken from publicly available sources, the board of trade should reference the source material used. If the estimates are derived independently by the board of trade based on information not readily verifiable or on trade interviews, the Commission may request that the board of trade provide the workpapers or other source materials used in the analysis.

This estimate would be required to be made taking into consideration the terms and conditions specified for the deliverable product and the economic realities of the cash market underlying the futures contract.[8] For a physical-delivery futures contract, therefore, this estimate represents product which is in store at the delivery point(s) specified in the futures contract or economically can be moved into or through such points within a short period of time after a request for delivery and which is available for sale on a spot basis within the marketing channels that normally are tributary to the delivery point(s).

For financial instrument contracts, deliverable supply consists of available supplies of the instrument meeting the contract's delivery standards that are available, at prevailing cash market values, to traders wishing to make future delivery. For example, significant quantities of off-the-run notes and

[8] Obviously, only product meeting the specified quality standards (*e.g.*, the grade, age, purity, weight, etc. for tangible commodities or the issue, maturity, rating, etc. for financial instruments) is eligible for delivery on a futures contract and should be considered as part of the deliverable supply.

bonds typically may be held by the Federal Reserve System and long-term investment portfolios (*e.g.*, pension funds) and would not be readily available for delivery on proposed futures contracts on U.S. government debt instruments except at distorted prices. Recognizing this and based on the opinions of knowledgeable industry participants, Commission staff historically has used a rule-of-thumb that only 50 percent of the on-the-run U.S. Treasury bond and 10 percent of each of the next two off-the-run bonds are economically available for delivery.

The spot-month speculative position limits should be set in relation to this deliverable supply estimate. Such spot-month speculative position limits should be no greater than one-quarter of the deliverable supply estimate for that month.[9]

ii. Justification of cash settlement price. The adequacy of the procedures for determining the cash settlement price is central to the Commission's review of proposed cash-settled contracts. Applications for such proposed futures contracts would continue to be required to demonstrate that those procedures will result in a cash settlement price which reflects the underlying cash market and is not subject to manipulation or distortion. In order to provide additional guidance to exchanges in meeting this requirement, the Commission is clarifying two of the criteria which it has identified through past experience for meeting these requirements. In this regard, any cash settlement price which is determined by an exchange through a survey method to elicit price quotes should include a number of polled entities which is representative of the underlying cash market. In no event, however, may the polling sample include fewer than four unrelated entities that do not take positions for their own account in the futures, option or underlying cash markets. Where the entities to be polled may trade in such markets for their own accounts, a minimum of eight unrelated entities would be required. These rule-of-thumb criteria have been included in the relevant chart.

B. Effect on Pending Applications

The proposed revision to Guideline No. 1 streamline the application process for designation of contract markets and clarify existing requirements and Commission practice. Because the Commission is not proposing any new substantive requirements, however, the Commission is permitting exchanges immediately to begin filing applications consistent with the proposed format. Moreover, because the Commission is permitting exchanges to continue providing the required information in a narrative format if they prefer, no application filed or already under development and nearing completion which complies with the existing guideline would have to be revised.

C. Foreign Futures Markets

The offer or sale in the United States of futures contracts traded on or subject to the rules of a foreign exchange is subject to the Commission's exclusive jurisdiction.[10] Although Section 2(a)(1)(B)(ii) of the Act provides that the Commission shall not designate a board of trade as a contract market in a futures on a securities index unless the Commission finds that the board of trade meets three enumerated criteria,[11] Congress understood that a foreign exchange might lawfully offer futures contracts on stock indexes absent designation. Thus, the House Committee on Agriculture suggested that a foreign board of trade could apply for ''certification'' that its stock index contract meets all applicable Commission requirements. H.R. Rep. No. 565, Part 1, 97th Cong., 2d Sess. 85 (1982). That Committee further explained that a foreign exchange seeking to offer in the United States a futures contract based upon an index of United States securities must demonstrate that the proposed futures contract meets the requirements set forth in Section 2(a)(1)(B)(ii). *Id.* With regard to a foreign stock index contract based on ''foreign securities,'' the House Committee suggested that the Commission use such criteria as it deems appropriate.

The Commission has not promulgated procedures for the filing of requests by foreign boards of trade for ''certification'' to offer or to sell such contracts, but instead has issued through its Office of the General Counsel, several '' no-action'' letters [12] regarding foreign stock index contracts based on foreign securities using the criteria set forth in Section 2(a)(1)(B)(ii) of the Act. As of June 4, 1998, such action has been taken for 24 stock index contracts for offer or sale in the United States that were submitted by 15 foreign boards of trade.[13]

Generally, the staff has analyzed such requests for a ''no-action'' opinion under the requirements of Section 2(a)(1)(B)(ii) of the Act. Accordingly, the staff has requested that the foreign board of trade file information which they deem relevant to those criteria. 57 FR 3518. To facilitate the staff's review of such requests by foreign boards of trade, the Commission is proposing that a separate appendix be added to Part 5 that would enumerate the information that foreign boards of trade should file with the Commission to assist in the staff's analysis of such requests. This information is the same as that previously requested to be filed. *Id.* Some of the data which should be included are: the terms and conditions of the contract and all other relevant rules of the exchange; information on information sharing arrangements or any legal obstacles to such sharing of information; and specific information related to the composition and computation of the index. All

[9] The Commission believes that spot-month speculative position limits are not an ideal substitute for deliverable supplies. In this respect, the fact that an exchange may specify a spot-month speculative position limit that equals or is less than the ''rule-of-thumb'' standard of one-fourth of a low deliverable supply estimate does not mean that deliverable supplies are at adequate levels. The Commission has approved new futures contracts or amended existing futures contracts with low deliverable supplies only after an exchange has exhausted potential sources of deliverable supplies and, if necessary, adopted low spot-month speculative limits to give it the ability to limit potential delivery demand. The preferred approach under the Act if deliverable supplies are inadequate is for the exchange to modify the delivery specifications to enhance deliverable supplies. *See*, section 5a(a)(10) of the Act.

[10] Section 2(a)(1)(A), 7 U.S.C. 2 (1982); 120 Cong. Rec. 34497 (1974) (Statement of Senator Talmadge) (the terms ''any other board of trade, exchange, or market'' in Section 2(a)(1)(A) make clear the Commission's exclusive jurisdiction includes futures contracts executed on a foreign board of trade, exchange or market).

[11] These three criteria are contained in Section 2(a)(1)(B)(ii). They are:

(1) The contract must provide for cash settlement;

(2) The proposed contract will not be readily susceptible to manipulation or to being used to manipulate any underlying security; and

(3) The index is predominately composed of the securities of unaffiliated issuers and reflects the market for all publicly traded securities or a substantial segment thereof.

[12] A no-action letter is a written statement that staff of a specific division will not recommend enforcement action to the Commission if a proposed transaction is undertaken or a proposed activity is conducted. A no-action letter represents the position of only the division issuing it and is binding upon that division and not on the Commission or other divisions. Further, a no-action letter is only effective with respect to the person or persons to whom it was issued and has no precedential effect.

[13] These 15 foreign boards of trade include: (1) Osaka Securities Exchange; (2) Tokyo Stock Exchange; (3) Hong Kong Futures Exchange; (4) Singapore International Monetary Exchange, Ltd.; (5) Toronto Futures Exchange; (6) International Futures Exchange (Bermuda), Ltd.; (7) London International Financial Futures Exchange Limited; (8) Marche a Terme International de France; (9) Sydney Futures Exchange Limited; (10) Meff Sociedad Rectora de Productos Financieros Derivados de Renta Variable, S.A. (Spain); (11) Deutsche Terminborse; (12) Italian Stock Exchange; (13) The Amsterdam Exchanges; (14) OMLX, The London Securities and Derivatives Exchange, Ltd; and (15) OM Stockholm AB.

information should be submitted in English, including any supplemental material such as explanatory notes, appended tables or charts. It should be noted that the Commission consults with the SEC regarding these procedures. When such consultation occurs, additional information may be requested by the SEC.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not ''small entities'' for purposes of the RFA, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). These amendments propose to establish alternative streamlined procedures for Commission review and approval of applications by contract markets for designations and of amendments to contract terms and conditions. Accordingly, the Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities. However, the Commission invites comments from any firms or other persons which believe that the promulgation of these rules might have a significant impact upon their activities.

B. Paperwork Reduction Act

When publishing proposed rules, the Paperwork Reduction Act (''PRA'') of 1995 {Pub. L. 104–13 (May 1, 1995)} imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the Act, the Commission, through this rule proposal, solicits comments to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of the 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 Commission has submitted this proposed rule and its associated information collection requirements to the Office of Management and Budget. The burden associated with this entire collection (3038–0022), including this proposed rule, is as follows:

Average burden hours per response: 3,609
Number of Respondents: 15,693
Frequency of response: On Occasion

The burden associated with this specific proposed rule is as follows:

Average burden hours per response: 58
Number of Respondents: 11
Frequency of response: On Occasion

Persons wishing to comment on the information which would be required by this proposed rule should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

Copies of the OMB-approved information collection package associated with this rulemaking may be obtained from the Desk Officer, Commodity Futures Trading Commission, Office of Management and Budget, Room 10202, NEOB Washington, D.C. 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 5

Commodity futures, Contract markets, Designation application, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular sections 4c, 5, 5a, 6 and 8a, 7 U.S.C. 6c, 7, 7a, 8, and 12a, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by amending Part 5 as follows:

PART 5—DESIGNATON OF AND CONTINUING COMPLIANCE BY CONTRACT MARKET

1. The authority citation for Part 5 continues to read as follows:

Authority: 7 U.S.C. 6c, 7, 7a, 8 and 12a.

2. In part 5, Appendix A is proposed to be revised to read as follows:

Appendix A to Part 5—Guideline No. 1; Interpretative Statement Regarding Economic and Public Interest Requirements for Contract Market Designation

(a) Application for Designation of Physical Delivery Futures Contracts

A board of trade shall submit:

(1) The rules setting forth the terms and conditions of the proposed futures contract.

(2) A description of the cash market for the commodity on which the contract is based.

(i) The description may include, in addition to or in lieu of materials prepared by the board of trade, existing studies by industry trade groups, academics, governmental bodies or other entities, reports of consultants, or other materials which provide a description of the underlying cash market.

(ii) Where the same, or a closely related commodity, is already designated as a contract market which is not dormant, the cash market description can be confined to those aspects relevant to particular term(s) or conditions(s) which differ from such existing contract.

(3) A demonstration that the terms and conditions, as a whole, will result in a deliverable supply such that the contract will not be conducive to price manipulation or distortion and that the deliverable supply reasonably can be expected to be available to short traders and salable by long traders at its market value in normal cash marketing channels.

For purposes of this demonstration, provide the following information in chart or narrative form.

CONTRACT TERMS AND CONDITIONS

Term or condition	Exchange proposal	Rule number of identical approved provision, if any*	Explanation as to consistency with, or reason for variance from, cash market practice
1. Commodity characteristics (*e.g.,* grade, quality, weight, class, growth, issuer, origin, maturity, source, rating, etc.).			
2. Any quality differentials for nonpar deliveries, or lack thereof, consistent with the Commission's Policy on Price Differentials.			
3. Delivery Points/Region.			
4. Any locational differentials for nonpar deliveries, or lack thereof, consistent with the Commission's Policy on Price Differentials.			
5. Delivery facilities (type, number, capacity, ownership).			
6. Contract size and/or trading unit.			
7. Delivery pack or composition of delivery units.			
8. Delivery instrument (*e.g.,* warehouse receipt, shipping certificate, bill of lading).			
9. Transportation terms (*e.g.,* FOB, CIF, prepay frieght to destination).			
10. Delivery procedures.			
11. Delivery months.			
12. Delivery period and last trading day.			
13. Inspection/certification procedures (verification of delivery eligibility, any discounts applied for age).			
14. Minimum price change (tick) equal to or less than cash market minimum price increment.			
15. Daily price limit provisions (note relationship to cash market price movements).			

*If an identical provision has been approved for a nondormant contract in the same commodity, there is no need to provide an explanation in the next column.

Deliverable Supplies

Estimate of Deliverable Supplies for Trading Month(s) With Lowest Supplies	
Estimation Methodology:	

Speculative Limits

Speculative limit	Standard	Level (exchange rule)
1. Spot month	No greater than one-fourth of estimated deliverable supply	
2. Nonspot individual month and all months combined (financial and energy contracts)	5,000 contracts	
3. Nonspot individual month and all months combined (tangible commodity contracts)	1,000 contracts	
4. Reporting level	Equal to or less than levels specified in CFTC rule 15.03	
5. Aggregation rule	Same as CFTC rule 150.5(g) or previously approved language	

(4) As specifically requested, such additional evidence, information or data relating to whether the contract meets, initially or on a continuing basis, any of the specific requirements of the Act, including the public interest standard contained in Section 5(7) of the Act, and whether the contract reasonably can be expected to be, or has been, used for hedging and/or price basing on more than an occasional basis, or any other requirement for designation under the Act or Commission rules and policies.

(b) Application for Cash Settled Futures Contracts

A board of trade shall submit:

(1) The rules setting forth the terms and conditions of the proposed futures contract.

(b) A description of the cash market for the commodity on which the contract is based.

(i) The description may include, in addition to or in lieu of materials prepared by the board of trade, existing studies by industry trade groups, academics, governmental bodies or other entities, reports of consultants, or other materials which provide a description of the underlying cash market.

(ii) Where the same, or a closely related commodity, is already designated as a contract market which is not dormant, the cash market description can be confined to those aspects relevant to particular term(s) or conditions(s) which differ from such existing contract.

(3) A demonstration that cash settlement of the contract is at a price relfecting the underlying cash market, will not be subject to manipulation or distortion, and is based on a cash price series that is reliable, acceptable, publicly available and timely.

For purposes of this demonstration, provide the following information in chart or narrative form.

CONTRACT TERMS

Term or condition	Proposal	Rule number of identical approved provision, if any*	Explanation as to consistency with, or reason for variance from, cash market practice
1. Commodity characterisics (*e.g.,* grade, quality, weight, class, growth, issuer, maturity, source, rating, etc.). 2. Delivery months, noting any cyclical variations in trading activity that may affect the potential for manipulating the cash settlement price. 3. Last trading day. 4. Contract size. 5. Minimum price change (tick). 6. Daily price limit provisions, relative to cash market price movements.			

*If an identical provision has been approved for a nondormant contract in the same commodity, there is no need to provide an explanation in the next column.

CASH SETTLEMENT PRICE SERIES

Requirement	Rule number of identical approved provision	Explanation or justification
1. Where an independent third party calculates the cash settlement price series, evidence that the third party does not object to its use and provides safeguards against its susceptibility to manipulation. 2. Where board of trade generates cash settlement price series, specification of calculation procedure and safeguards in cash settlement process to protect against susceptibility to manipulation (*e.g.*, if self-generated survey, polling sample representative of cash market, but with a minimum of 4 nontrading entities or 8 entities that trade for own account). 3. Procedure for, and timeliness of, dissemination to public. 4. Evidence that price is reliable indicator of cash market values and is acceptable for hedging.		

SPECULATIVE LIMITS

Speculative limit	Standard	Level (exchange rule)
1. Spot month	Needed to minimize potential for manipulation if underlying cash market is small or trading is not highly liquid.	
2. Nonspot individual month and all months combined (financial and energy contracts).	5,000 contracts	
3. Nonspot individual month and all months combined (tangible commodity contracts).	1,000 contracts	
4. Reporting level	Equal to or less than levels specified in CFTC rule 15.03.	
5. Aggregation rule	Same as CFTC rule 150.5(g) or previously approved language.	

(4) As specifically requested, such additional evidence, information or data relating to whether the contract meets, initially or on a continuing basis, any of the specific requirements of the Act, including the public interest standard contained in Section 5(7) of the Act, and whether the contract reasonably can be expected to be, or has been, used for hedging and/or price basing on more than an occasional basis, or any other requirement for designation under the Act or Commission rules and policies.

(c) Application for Option Contracts

A board of trade shall submit:

(1) The rules setting forth the terms and conditions of the proposed option contract.

(2)(i) For options on future contracts, the terms and conditions of the proposed or existing underlying futures contract.

(2)(ii) For options on physical commodities:

(A) A description of the cash market for the commodity on which the contract is based.

(*1*) The description may include, in addition to or in lieu of materials prepared by the board of trade: existing studies by industry trade groups, academics, governmental bodies or other entities; promotional or marketing materials prepared by or for the board of trade; reports of consultants; or other materials which provide a description of the underlying cash market.

(*2*) Where the same, or a closely related commodity, is already designated and is not dormant, the cash market description can be confined to those aspects relevant to particular term(s) or conditions(s) which differ from such existing contract.

(B) Depending on the method of settling the option, the relevant chart for either a physical delivery or cash settled futures contract.

(3) The following completed chart.

Criterion	Applicable CFTC rule (17 CFR)	Standard	Met by exchange rule number	Justification for not meeting standard, or rule number of identical approved rule
Speculative limits	150.5	Combined net position in futures and options on a futures-equivalent basis at the futures position levels, with inter-month spread exemptions that are consistent with those of the futures contract.		
2. Aggregation rule	150.4	Same as Rule 150.5(g) or previously approved language.		
3. Reporting level	15.00(b)(2)	50 contracts or fewer.		
4. Strike prices (number listed & increments).	33.4(b)(1)	Procedures for listing strikes are specified and automatic.		
5. Option expiration & last trading day.	33.4(d)(1)	Except for options on cash-settled futures contracts, expiration is not less than one business day before the earlier of the last trading day or the first notice day of the underlying future.		
6. Minimum tick	33.4(d)	Equal to, or less than, the underlying futures tick.		
7. Daily price limit, if specified	33.4(d)	Equal to, or greater than, the underlying futures price limit.		

(4) As specifically requested, such additional evidence, information or data relating to whether the contract meets, initially or on a continuing basis, any of the specific requirements of the Act, including the public interest standard contained in Section 5(7) of the Act or any other requirement for designation under the Act or Commission rules and policies.

3. Part 5 is proposed to be amended by adding new Appendix E to read as follows:

Appendix E—Information That a Foreign Board of Trade Should Submit When Seeking No-Action Relief To Offer and Sell in the United States a Futures Contract on a Foreign Securities Index Traded on That Exchange

A foreign board of trade seeking no-action relief to offer and to sell in the United States a futures contract on a foreign securities index traded on that exchange should submit the following information in English:

(1) The terms and conditions of the contract and all other relevant rules of the exchange and, if applicable, of the exchange on which the underlying securities are traded, which have an effect on the overall trading of the contract, including circuit breakers, price limits, position limits or other controls on trading;

(2) Surveillance agreements between the foreign boards of trade and the exchange(s) on which the underlying securities are traded;

(3) Information sharing agreements between the host regulator and the Commission or assurances of ability and willingness to share and assurances from the foreign exchange of its ability and willingness to share information with the Commission.

(4) When applicable, information regarding foreign blocking statutes and their impact on the ability of United States government agencies to obtain information concerning the trading of such contracts; and

(5) Information and data, denoted in U.S. dollars, relating to:

(i) The method of computation, availability, and timeliness of the index;

(ii) The total capitalization, number of stocks (including the number of unafiliated issuers if different from the number of stocks), and weighting of the stocks by capitalization and if applicable by price, in the index;

(iii) Breakdown of the index by industry segment including the capitalization and weight of each industry segment;

(iv) Procedures and criteria for selection of individual securities for inclusion in, or removal from, the index, how often the index is regularly reviewed, and any procedures for changes in the index between regularly scheduled reviews;

(v) Method of calculation of the cash-settlement price and the timing of its public release; and

(vi) Average daily volume of trading by calendar month, measured by share turnover and dollar value, in each of the underlying securities for a six-month period of time and, separately, the daily volume in each underlying security for six expirations (cash-settlement dates) or for the six days of that period on which cash-settlement would have occurred had each month of the period been an expiration month.

Issued in Washington, D.C. this 13th day of July, 1998 by the Commodity Futures Trading Commission.

Jean Webb,

Secretary of the Commission.

[FR Doc. 98–19113 Filed 7–16–98; 8:45 am]

BILLING CODE 6351–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6123–5]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 112(l) of the 1990 Clean Air Act (CAA), the Arizona Department of Environmental Quality (ADEQ) requested delegation of specific national emission standards for hazardous air pollutants (NESHAPs). In the Rules section of this **Federal Register**, EPA is granting ADEQ the authority to implement and enforce specified NESHAPs. The direct final rule also explains the procedure for future delegation of NESHAPs to ADEQ. EPA is taking direct final action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The 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 in writing by August 17, 1998.

ADDRESSES: Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the submitted requests are available for public inspection at EPA's Region IX office during normal business hours (docket number A–96–25).

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

This document concerns delegation of unchanged NESHAPs to the Arizona Department of Environmental Quality. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Authority: This action is issued under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S.C. Section 7412.

Dated: June 26, 1998.

David P. Howekamp,

Director, Air Division,

Region IX.

[FR Doc. 98–19137 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 63, No. 137
Friday, July 17, 1998

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

Office of the Secretary

Privacy Act; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revised Privacy Act systems of records.

SUMMARY: Notice is hereby given that the USDA proposes to revise its systems of records relating to the Rural Development Mission Area.

EFFECTIVE DATE: This notice will be adopted without further publication in the **Federal Register** on September 15, 1998, unless modified by a subsequent notice to incorporate comments received from the public. Although the Privacy Act requires only that the portion of the system which describes the ''routine uses'' of the system be published for comment, USDA invites comment on all portions of this notice. Comments must be received by the contact person listed below on or before August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Dorothy Hinden, Freedom of Information Officer, Support Services Division, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Stop 0742, Washington, DC 20250–0742; telephone (202) 720–9638.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is redesignating and revising seven systems of records and deleting two systems of records formerly maintained by the Farmers Home Administration (''FmHA''). In 1994, USDA reorganized, transferring the farm loan functions of FmHA to the Farm Service Agency (''FSA''). The revisions USDA is proposing reflect this reorganization. The following are the constituent agencies of Rural Development: (1) Rural Housing Service, (2) Rural Business-Cooperative Service, and (3) Rural Utilities Service. Specifically, USDA will delete the system designated as USDA/FmHA–3, ''Designated Attorney and Escrow Agent File'' and incorporate the records maintained in that system into USDA/Rural Development-1, ''Applicant, Borrower, Grantee, or Tenant File.'' A second system of records, USDA/FmHA–7, ''Reserved Mineral Interests'', is being deleted because the records are no longer maintained by USDA. In addition, USDA is redesignating, reorganizing, and revising systems as follows:

(1) USDA will maintain the records relating to the Rural Development Mission Area formerly maintained under the system designation ''USDA/FmHA–1, Applicant, Borrower, Grantee, or Tenant File'' under the new designation ''USDA/Rural Development-1, Applicant, Borrower, Grantee, or Tenant File.'' That portion of the former system pertaining to Farmer Loan Programs has already been redesignated as a separate system entitled ''USDA/FSA–14, Applicant/Borrower.'' In addition to the redesignation to reflect the reorganization of FmHA programs as Rural Development programs, USDA is amending the system to include social security or employee identification number, bank routing and account number under the heading, ''categories of records in the system.''

USDA is making the following revisions to the routine uses in the system:

(1) Routine use number 3 which permits release of names, home addresses, social security numbers, and financial information to business firms in a trade area that buy chattel or crops or sell them for commission is being deleted because it is no longer needed. It is being replaced as follows: Referral of legally enforceable debts to the Department of the Treasury under the Treasury Offset Program (TOP) and the Debt Collection Improvement Act of 1996, Pub. L. 104–134. (2) Additional language is being added to routine use number 7 to provide information from this system to assist the borrower in placing the property on the market through a real estate agent. Two new routine uses have been added: (1) Routine use number 17 which provides to consumer or commercial reporting agencies information from this system indicating that an individual is responsible for a claim that is current. (2) Routine use number 18 which permits release of names, home and work addresses, home telephone numbers, social security numbers, and financial information to escrow agents (which also could include attorneys and title companies) selected by the applicant or borrower for the purpose of closing the loan.

(2) USDA is redesignating USDA/FmHA–2, ''Biographical Sketch File'' as USDA/Rural Development-2 ''Biographical Sketch File.'' This system is being amended to indicate a change in the record system location; and to indicate a change in the categories of individuals covered by the system.

(3) USDA is redesignating USDA/FmHA–5, ''Graduation File'' as USDA/Rural Development-3, ''Graduation File.'' This system is being amended to indicate a position title change and to remove the County Committee from the categories of records in the system since it is no longer needed. It is further being amended to add ''or to assist the borrower in the sale of the property'' to the routine use number 3. The purpose of this amendment is to assist the borrower in placing the property on the market through a real estate agent. Stylistic changes have been made in the three routine uses for purposes of clarification.

(4) USDA is redesignating USDA/FmHA–6, ''Housing Contractor Complaint File'' as USDA/Rural Development-4, ''Housing Contractor Complaint File.'' Stylistic changes have been made in routine uses 1 and 2.

(5) USDA/FmHA–8, ''Tort Claims File'' is being amended to indicate a change in the system designation to USDA/Rural Development-5 ''Tort Claims File.'' Rural Development has made stylistic changes in the language of the routine use.

(6) USDA/FmHA–9, ''Training Files'' is bend amended to indicate a change in the system designation to USDA/Rural Development-6, ''Training Files.'' This system is being amended to delete the Norman, OK site. Stylistic changes have been made in the routine use for purposes of clarification.

(7) USDA/FmHA–10, ''Travel Records'' is being amended to indicate a change in the system designation to USDA/Rural Development-7, ''Travel Records'' and to reflect that the period ''Two years'' is being replaced with ''six years'' under the retention and disposal schedule.

Changes in system locations, position titles for system managers, and addresses have been made where appropriate; and all references to Farmers Home Administration have been changed to Rural Development.

A ''Report on Revised System,'' required by 5 U.S.C. 552a(r), as implemented by Appendix III to OMB Circular A–130, was sent to the Chairman, Senate Committee on Governmental Affairs, the Chairman, House Committee on Government Reform and Oversight, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget on April 15, 1998.

Signed at Washington, DC on April 15, 1998.

Dan Glickman,

Secretary of Agriculture.

USDA/RURAL DEVELOPMENT–1

SYSTEM NAME:

Applicant, Borrower, Grantee, or Tenant File

SYSTEM LOCATION:

Each Rural Development applicant's, borrower's, grantee's, or tenant's file is located in the Local, Area, or State Office through which the financial assistance is sought or was obtained; in the Centralized Service Center, St. Louis, Missouri; and in the Finance Office in St. Louis, Missouri. A State Office version of the Local or Area Office file may be located in or accessible by the State Office which is responsible for that Local or Area Office. Correspondence regarding borrowers is located in the State and National Office files.

A list of all State Offices and any additional States for which an office is responsible is as follows:

Montgomery, AL
Palmer, AK
Phoenix, AZ
Little Rock, AR
Woodland, CA
Lakewood, CO
Camden, DE–DC, MD
Gainsville, FL
Athens, GA
Hilo, HI-Western Pacific Terr.
Boise, ID
Champaign, IL
Indianapolis, IN
Des Monies, IA
Topeka, KS
Lexington, KY
Alexandria, LA
Bangor, ME
Amherst, MA–CT, RI
East Lansing, MI
St. Paul, MN
Jackson, MS
Columbia, MO
Bozeman, MT
Lincoln, NE
Carson City, NV
Mt. Holy, NJ
Albuquerque, NM
Syracuse, NY
Raleigh, NC
Bismarck, ND
Columbus, OH
Stillwater, OK
Portland, OR
Harrisburg, PA
Hato Rey, PR
Columbia, SC
Huron, SD
Nashville, TN
Temple, TX
Salt Lake City, UT
Montpelier, VT–NH, VI
Richmond, VA
Wentchee, WA
Morgantown, WV
Stevens Point, WI
Casper, WY

The address of Local, Area, and State Offices are listed in the telephone director of the appropriate city or town under the heading ''United States Government, Department of Agriculture, Rural Development.'' The Financial Office is located at 1520 Market Street, St. Louis, Missouri 63103.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Rural Development applicants, borrowers, grantees, tenants, and their respective household members, including members of associations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes files containing the names of applicants, borrowers, grantees, tenants, their social security or employer identification number, bank routing and account numbers; and their respective household members' characteristics, such as gross and net income, sources of income, capital, assets and liabilities, net worth, age, race, number of dependents, marital status, reference material, farm or ranch operating plans, and property appraisals. The system also includes credit reports and personal references from credit agencies, lenders, businesses, and individuals. In addition, a running record of observation concerning the operations of the person being financed is included. A record of deposits to and withdrawals from an individual's supervised bank account is also contained in those files where appropriate. In some Local Offices, this record is maintained in a separate folder containing only information relating to activity within supervised bank accounts. Some items of information are extracted from the individual's file and placed in a card file for quick reference.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 et seq., and 42 U.S.C. 2706.

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

1. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prospective responsibility of the receiving entity.

2. A record from this system of records may be disclosed to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

3. Rural Development will provide information from this system to the U.S. Department of the Treasury and to other Federal agencies maintaining debt servicing centers, in connection with overdue debts, in order to participate in the Treasury Offset Program as required by the Debt Collection Improvements Act, Pub. L. 104–134, Section 31001.

4. Disclosure of the name, home address, and information concerning default on loan repayment when the default involves a security interest in tribal allotted or trust land. Pursuant to the Cranston-Gonzales National Affordable Housing Act of 1990 (42 U.S.C. 12701 et seq.), liquidation may be pursued only after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe(s).

5. Referral of names, home addresses, social security numbers, and financial information to a collection or servicing contractor, financial institution, or a local, State, or Federal agency, when Rural Development determines such referral is appropriate for servicing or collecting the borrower's account or as provided for in contracts with servicing or collection agencies.

6. It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body, when: (a)

The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the agency collected the records.

7. Referral of names, home addresses, and financial information for selected borrowers to financial consultants, advisors, lending institutions, packagers, agents, and private or commercial credit sources, when Rural Development determines such referral is appropriate to encourage the borrower to refinance his Rural Development indebtedness as required by Title V of the Housing Act of 1949, as amended (42 U.S.C. 1471), or to assist the borrower in the sale of the property.

8. Referral of legally enforceable debts to the Department of the Treasury, Internal Revenue Service (IRS), to be offset against any tax refund that may become due the debtor for the tax year in which the referral is made, in accordance with the IRS regulations at 26 CFR 301.6402–6T, Offset of Past Due Legally Enforceable Debt Against Overpayment, and under the authority contained in 31 U.S.C. 3720A.

9. Referral of information regarding indebtedness to the Defense Manpower Data Center, Department of Defense, and the United States Postal Service for the purpose of conducting computer matching programs to identify and locate individuals receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the U.S. Government under certain programs administered by Rural Development in order to collect debts under the provisions of the Debt Collection Act of 1982 (5 U.S.C. 5514) by voluntary repayment, administrative or salary offset procedures, or by collection agencies.

10. Referral of names, home addresses, and financial information to lending institutions when Rural Development determines the individual may be financially capable of qualifying for credit with or without a guarantee.

11. Disclosure of names, home addresses, social security numbers, and financial information to lending institutions that have a lien against the same property as Rural Development for the purpose of the collection of the debt. These loans can be under the direct and guaranteed loan programs.

12. Referral to private attorneys under contract with either Rural Development or with the Department of Justice for the purpose of foreclosure and possession actions and collection of past due accounts in connection with Rural Development.

13. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

14. Referral of names, home addresses, social security numbers, and financial information to the Department of Housing and Urban Development (HUD) as a record of location utilized by Federal agencies for an automatic credit prescreening system.

15. Referral of names, home addresses, social security numbers, and financial information to the Department of Labor, State Wage Information Collection Agencies, and other Federal, State, and local agencies, as well as those responsible for verifying information furnished to qualify for Federal benefits, to conduct wage and benefit matching through manual and/or automated means, for the purpose of determining compliance with Federal regulations and appropriate servicing actions against those not entitled to program benefits, including possible recovery of improper benefits.

16. Referral of names, home addresses, and financial information to financial consultants, advisors, or underwriters, when Rural Development determines such referral is appropriate for developing packaging and marketing strategies involving the sale of Rural Development loan assets.

17. Rural Development, in accordance with 31 U.S.C. 3711(e)(5), will provide to consumer reporting agencies or commercial reporting agencies information from this system indicating that an individual is responsible for a claim that is current.

18. Referral of names, home and work addresses, home telephone numbers, social security numbers, and financial information to escrow agents (which also could include attorneys and title companies) selected by the applicant or borrower for the purpose of closing the loan.

DISCLOSURE TO CONSUMER REPORTING AGENCIES.

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act (31 U.S.C. 3701(a)(3)).

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

STORAGE:

Records are maintained in file folders at the Local, Area, State, and National Offices. A limited subset of personal, financial, and characteristics data required for effective management of the programs and borrower repayment status is maintained on disc or magnetic tape at the Finance Office. This subset of data may by accessed by the authorized personnel from each office.

RETRIEVABILITY:

Records are indexed by name, identification number and type of loan or grant. Data may be retrieved from the paper records or the magnetic tapes. A limited subset of data is available through telecommunications capability, ranging from telephones to intelligent terminals. All Rural Development offices have the telecommunications capability available to access this subset of data.

SAFEGUARDS:

Records are kept in locked offices at the Local, Area, State, and National Offices. A limited subset of data is also maintained in a tape and disc library and an on-line retrieval system at the Finance Office. Access is restricted to authorized Rural Development personnel. A system of operator and terminal passwords and code numbers is used to restrict access to the on-line system. Passwords and code numbers are changed as necessary.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 33), and in accordance with Rural Development's disposal schedules. The Local, Area, State, and National Offices dispose of records by shredding, burning, or other suitable disposal methods after established retention periods have been fulfilled. Finance Office records are disposed of

by overprinting. (Destruction methods may never compromise the confidentiality of information contained in the records.)

Applications, including credit reports and personal references, which are rejected, withdrawn, or otherwise terminated are kept in the Local, Area, or State Office for 2 full fiscal years and 1 month after the end of the fiscal year in which the application was rejected, withdrawn, canceled, or expired. If final action was taken on the application, including an appeal, investigation, or litigation, the application is kept for 1 full fiscal year after the end of the fiscal year in which final action was taken.

The records, including credit reports, of borrowers who have paid or otherwise satisfied their obligation are retained in the Local, Area, or State Office for 1 full fiscal year after the fiscal year in which the loan was paid in full. Correspondence records at the National Office which concern borrowers and applicants are retained for 3 full fiscal years after the last year in which there was correspondence.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager at the Local Office, the Rural Development Manager at the Area Office, and the State Director at the State Office, the Deputy Chief Financial Officer in St. Louis, MO, and the respective Administrators in the National Office at the following addresses: Administrator, Rural Housing Service, USDA, 1400 Independence Avenue, SW, Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW, Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW, Room 4501, South Building, Stop 1510, Washington, DC 2050–1510.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or determine whether the system contains records pertaining to him/her, from the appropriate System Manager. If the specific location of the record is not known, the individual should address his or her request to: Rural Development, Freedom of Information Officer, United States Department of Agriculture, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742.

A request for information pertaining to an individual must include a name; an address; the Rural Development office where the loan or grant was applied for, approved, and/or denied; the type of Rural Development program; and the date of the request or approval.

RECORD ACCESS PROCEDURES:

Any individual may obtain information regarding the procedures for gaining access to a record in the system which pertains to him or her by submitting a written request to one of the System Managers.

CONTESTING RECORD PROCEDURES:

Same as record access procedures.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the applicant, borrower, grantee, or tenant. Credit reports and personal references come primarily from credit agencies and creditors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

USDA/RURAL DEVELOPMENT–2

SYSTEM NAME:

Biographical Sketch File

SYSTEM LOCATION:

USDA/Rural Development, 1400 Independence Avenue, SW., Stop 0730, Washington, DC 20250–0730.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees and former employees of Rural Development at or above the Division Director level and all current and former Schedule C employees and Senior Executive Service members.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing information concerning employee's educational and employment history, awards, marital status, number of children, present employment, place of birth, and current residence. The employee knows the file is maintained and has approved the biography.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

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

The information is furnished to the news media, congressional committees, organizations to which the employee will be speaking, and other interested parties.

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

STORAGE:

Records are maintained in file folders at the National Office.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Recors are kept in a building with full-time security.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESSES:

Administrator, Rural Housing Service, USDA, 1400 Independence Avenue, SW., Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW., Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW., Room 4501, South Building, Stop 1510, Washington, DC 20250–1510.

NOTIFICATION PROCEDURE

Any individual may request information concerning this system of records, or information as to whether the system contains record pertaining to him/her from the System Manager. A request for information pertaining to an individual should contain: name, address, position(s) held in Rural Development, and dates of employment.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to and contesting a record in the system which pertains to him/her by submitting a written request to the System Manager.

CONTESTING RECORD PROCEDURES:

Same as record access procedures.

RECORD SOURCE CATEGORIES:

Information in this system is provided by the employee, or is taken from his/her recorded with his/her concurrence.

USDA/RURAL DEVELOPMENT–3

SYSTEM NAME:

Graduation File.

SYSTEM LOCATION:

Each borrower's graduation file is located in the Local and Area Offices through which the borrower obtained his loan, and, in some cases, at the State Office responsible for that Local and Area Offices.

A list of State Offices and any additional States for which an office is responsible is included under the system titled ''USDA/Rural Development-1 Applicant, Borrower, Grantee, or Tenant File.'' The address of State and Local Offices are listed in the telephone directory or the appropriate city or town under the heading ''United States Government, Department of Agriculture, Rural Development.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Rural Development borrowers whose loans are eligible for review to determine whether the borrower should obtain credit from other sources. All borrowers who have been in debit for at least five years on a real estate loan are considered eligible for review.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing names of borrowers eligible for review, type of loan, whether graduation is advisable and any communications with the borrower concerning whether the loan has been paid off or if the borrower is usable to refinance, as well as comments of the Community Development Manager.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

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

1. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

2. A record from this system of records may be disclosed to a Member of Congress or to a congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

3. Referral of names, home addresses, and financial information for selected borrowers to financial consultants, advisors, lending institutions, packagers, agents, and private or commercial credit sources, when Rural Development determines such referral is appropriate to encourage the borrower to refinance his Rural Development indebtedness as required by Title V of the Housing Act of 1949, as amended (42 U.S.C. 1471), or to assist the borrower in the sale of the property.

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

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are kept in locked offices at all levels, and access is restricted to authorized Rural Development officials.

RETENTION AND DISPOSAL:

Records are retained for three years after the list of borrowers eligible for review was received by the Community Development Manager.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager and the State Director at the appropriate levels.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him from the appropriate System Manager. If the specific location of the record is not known, the individual should address a request to the Freedom of Information Officer, Rural Development, USDA, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742. A request for information pertaining to an individual should contain: Name, address, State and county where loan was applied for or approved, and particulars involved (i.e. date of request/approval, type of loan, etc.).

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to one of the System Managers referred to in the proceeding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the borrower.

USDA/RURAL DEVELOPMENT–4

SYSTEM NAME:

Housing Contractor Complaint File.

SYSTEM LOCATION:

Complaints concerning housing contractors may be filed in the Local, Area, and State Offices in any State, County or District in which the contractor has conducted business.

A list of State Offices and any additional State for which an office is responsible is included under the system titled ''USDA/Rural Development-1 Applicant, Borrower, Grantee, or Tenant File.'' The addresses of State and Local Offices are listed in the telephone directory of the appropriate city or town under the heading ''United States Government, Department of Agriculture, Rural Development.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All housing contractors who have performed work for Rural Development borrowers and about whom the borrower has seen fit to file a complaint.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing borrowers' complaints concerning contractors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

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

1. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statue, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of receiving entity.

2. It shall be a routine use of the records in this system of records to disclose them in a proceeding before a court or adjudicative body, when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any

employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the agency collected the records.

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

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by the contractor or name of the construction company.

SAFEGUARDS:

Records are kept in locked offices at all levels. Access at all levels is restricted to authorized Rural Development officials.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 33) and in accordance with Rural Development's disposal schedules. Records are retained for three years after the fiscal year of the complaint.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager at the Local Office level and the State Director at the State Office level.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the appropriate System Manager. If the specific location of the record is not known, the individual should address his/her request to the Freedom of Information Officer, Rural Development, USDA, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742. A request for information pertaining to an individual should contain: Name, address, and location where work was performed for Rural Development borrowers.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to one of the System Managers referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the complainants.

USDA/RURAL DEVELOPMENT–5

SYSTEM NAME:

Tort Claims File, USDA/Rural Development

SYSTEM LOCATION:

Each claimant's file is located in the office of the employee against whom the action was filed, the applicable State Office, and the National Office. A list of State Offices and any additional States for which an office is responsible is included under the system titled ''USDA/Rural Development–1 Applicant, Borrower, Grantee or Tenant File.'' The addresses of State and Local Offices are listed in the telephone directory of the appropriate city or town under the heading ''United States Government, Department of Agriculture, Rural Development.'' The National Office is located at the following address: USDA/Rural Development, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All claimants who have filed civil suits against employees of Rural Development, or against the Federal Government, including those filed under the Tort Claims Act, as a result of circumstances involving Rural Development.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing information as to the circumstances of the loss for which the claimant is seeking relief, opinions of the Office of General Counsel, USDA, and disposition of the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 et seq., and 5 U.S.C. 301.

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

When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

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

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by claimant's name.

SAFEGUARDS:

Records are kept in locked offices at all levels. Access at all levels is restricted to authorized Rural Development officials.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 33) and in accordance with Rural Development's disposal schedules. Records are retained for five years after the last written report or document was placed in the file.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager at the Local Office level, the State Director at the State Office level and the respective Administrators in the National Office at the following addresses: Administrator, Rural Housing Service, USDA, 1400 Independence Avenue, SW., Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW., Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW., Room 4501, South Building, Stop 1510, Washington, DC 20250–1510.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the appropriate System Manager. If the specific location of the record is not known, the individual should address his/her request to the Freedom of Information Officer, Rural Development, USDA, 1400 Independence Avenue, SW., Stop 0742,

Washington, DC 20250–0742. A request for information pertaining to an individual should contain: Name, address, defendant in the action and date of the initiation of the action.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to one of the System Managers referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Information in this file comes primarily from the claimant.

USDA/RURAL DEVELOPMENT–6

SYSTEM NAME:

Training Files.

SYSTEM LOCATION:

Training files may be located at the Rural Development National Office, 501 School Street, SW., Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who have received or applied for training at the Rural Development Training Center and other locations if such training was to be at Rural Development expense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, date(s) of training and course(s) taken or applied for are included in this record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

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

When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

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

STORAGE:

Records are maintained in file folders at the National Office.

RETRIEVABILITY:

Records are indexed by the name of the individual receiving/applying for training.

SAFEGUARDS:

Records are kept in a locked office.

RETENTION AND DISPOSAL:

Retention is indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Administrator, Rural Housing, USDA, 1400 Independence Avenue, SW, Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW, Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW, Room 4501, South Building, Stop 1510, Washington, DC 20250–1510.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the appropriate System Manager. Requests should include name and address.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertain to him/her by submitting a written request to the System Manager.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORDS SOURCE CATEGORIES:

Information in this system comes from the applicant.

USDA/RURAL DEVELOPMENT–7

SYSTEM NAME:

Travel Records.

SYSTEM LOCATION:

Each traveler's file is located in the Local Office or Area Office in which he/she is employed; the State Office responsible for that Local Office or Area Office; or in the National Finance Office if the traveler is employed at either of those levels.

A list of State Offices and any additional States for which an office is responsible is included under the system titled ''USDA/Rural Development-1 Applicant, Borrower, Grantee, or Tenant File.'' The addresses of State, Local, and Area Offices are listed in the telephone directory of the appropriate city or town under the heading ''United States Government, Department of Agriculture, Rural Development.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Rural Development employees and former employees whose travel expenses have been paid for by Rural Development.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files containing employees; itineraries and travel vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 *et seq.*, 42 U.S.C. 1471 *et seq.*, and 5 U.S.C. 301.

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

When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature,and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

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

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are kept in locked offices at all levels. Access at all levels is restricted to authorized Rural Development officials.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 33) and in accordance with Rural Development's disposal schedules. Records are disposed of six years after the fiscal year in which the travel occurred.

SYSTEM MANAGER(S) AND ADDRESS:

The Community Development Manager at the Local Office level, the State Director at the State Office level, the Deputy Chief Financial Officer for Finance Office records and the respective Administrators, for the National Office files at the following addresses in the National Office: Administrator, Rural Housing Service, USDA, 1400 Independence Avenue, SW, Room 5014, South Building, Stop 0701, Washington, DC 20250–0701; Administrator, Rural Business-Cooperative Service, USDA, 1400 Independence Avenue, SW, Room 5045, South Building, Stop 3201, Washington, DC 20250–3201; Administrator, Rural Utilities Service, USDA, 1400 Independence Avenue, SW, Room 4501, South Building, Stop 1510, Washington, DC 20250–1510.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the appropriate System Manager. If the specific location of the record is not known, the individual should address his/her request to the Freedom of Information Officer, Rural Development, USDA, 1400 Independence Avenue, SW., Stop 0742, Washington, DC 20250–0742. A request for information pertaining to an individual should contain: Name, address, and dates and places of employment.

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to one of the System Managers referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the employee.

[FR Doc. 98–19119 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB–98–06]

Burley Tobacco Advisory Committee—Notice of Committee Renewal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Committee Renewal.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has renewed the Burley Tobacco Advisory Committee for an additional period of 2 years.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, 300 12th Street, S.W., Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: The Committee, which reports to the Secretary through the Assistant Secretary for Marketing and Regulatory Programs, recommends opening dates and selling schedules for the burley marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members; 21 producer representatives, 10 warehouse representatives, and 8 buyer representatives, representing all segments of the burley tobacco industry and meets at the call of the Secretary. The Secretary has determined that renewal of this Committee is in the public interest.

To ensure that recommendations of the Committee take into account the needs of diverse groups served by the Department, membership should include, to the extent practicable, persons with demonstrated ability to represent minorities, women, and persons with disabilities.

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App.).

Dated: July 13, 1998.

Reba Evans,

Acting Deputy Assistant Secretary for Administration.

[FR Doc. 98–19079 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TB–98–07]

Flue-Cured Tobacco Advisory Committee—Notice of Committee Renewal

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Committee Renewal.

SUMMARY: Notice is hereby given that the Secretary of Agriculture has renewed the Flue-Cured Tobacco Advisory Committee for an additional period of 2 years.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, 300 12th Street, S.W., Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567.

SUPPLEMENTARY INFORMATION: The Committee, which reports to the Secretary through the Assistant Secretary for Marketing and Regulatory Programs, recommends opening dates and selling schedules for the flue-cured marketing area which aid the Secretary in making an equitable apportionment and assignment of tobacco inspectors. The Committee consists of 39 members; 21 producer representatives, 10 warehouse representatives, and 8 buyer representatives, representing all segments of the flue-cured tobacco industry and meets at the call of the Secretary. The Secretary has determined that renewal of this Committee is in the public interest.

To ensure that recommendations of the Committee take into account the needs of diverse groups served by the Department, membership should include, to the extent practicable, persons with demonstrated ability to represent minorities, women, and persons with disabilities.

This notice is given in compliance with the Federal Advisory Committee Act (5 U.S.C. App.).

Dated: July 13, 1998.

Reba Evans,

Acting Deputy Assistant Secretary for Administration.

[FR Doc. 98–19078 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; Form FNS–259, Food Stamp Mail Issuance Report

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with 44 U.S.C. 3506(c)(2)(A), as amended by Section 2 of Pub. L. 104–13, the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collections. This notice announces the Food and Nutrition Service's (FNS) intention to request that the Office of Management and Budget (OMB) review and approve the agency's proposal to continue requiring the use of the Form FNS–259, Food Stamp Mail Issuance Report, for another 3 years. Section 7 of the Food Stamp Act of 1977 (the Act), 7 U.S.C. 2016, requires that coupons be issued only to households which have been duly certified as eligible to participate in the Program; that Program benefits are timely distributed in the correct amounts; and that mail issued benefits and mail issuance reconciliation activities are properly conducted and accurately reported to FNS.

DATES: Written comments and recommendations for the proposed information collection must be received by September 15, 1998 to be assured of consideration.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimated burden that the proposed collection of information would impose, 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 information collection burden, including the use of appropriate system automation, other electronics, mechanical, or other technological collection techniques. Comments may be sent to Abigail C. Nichols, Director, Program Accountability Division, Food and Nutrition Service, Food Stamp Program, USDA, 3101 Park Center Drive, Room 905, Alexandria, Virginia, 22302.

All responses to this notice will be summarized and included in the information collection request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information regarding this information collection should be directed to Abigail C. Nichols at (703) 305–2414.

SUPPLEMENTARY INFORMATION:

Title: Food Stamp Mail Issuance Report.

OMB Number: 0584–0015.

Form No.: FNS–259.

Expiration Date: 10/31/98.

Type of Request: Extension of a currently approved information collection.

Abstract: Pursuant to Section 7(f) of the Act, Part 274.4 of the Food Stamp Program (FSP) regulations requires that State agencies account for all food stamp coupon mail issuances, including the number and value of mail issuance replacements. This part of the regulations requires each coupon issuer at intervals prescribed by the Secretary, but not less often than monthly, to submit a written report of the issuer's operations during such period. Part 276.2 of the regulations provides that State agencies be held strictly liable for mail issuance losses that are in excess of the State agency's preselected tolerance level for each administrative reporting unit. The program management information collected on Form FNS–259 is used by FNS to validate mail issuance, identify mail issuance losses, assess liabilities and bill State agencies for a portion of mail issuance losses.

Frequency of Responses: The FNS–259 collects monthly information for three consecutive calendar months which must be accumulated and submitted to FNS on a quarterly basis by the 45th day following the end of the quarter.

Affected Public: State and local government.

Number of Respondents: 1,470.

Number of Responses Per Respondent: 4.

Total Annual Burden Hours: 490.

Dated: July 7, 1998.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 98–19118 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Forest Service

Thompson Creek Supplemental Plan of Operation; Challis National Forest, Custer County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice; extension of comment period and correction.

SUMMARY: The notice of availability for the Draft Supplemental Environmental Impact Statement (DSEIS) for the Thompson Creek Mine Supplemental Plan of Operation published in the June 19, 1998 **Federal Register** (Vol. 63, No. 118, 33651) indicated the close of the comment period was August 3, 1998. The comment period has now been extended to August 17, 1998.

The Notice of Intent to Repair a Supplemental Environmental Impact Statement published in the February 9, 1995 **Federal Register** (Vol. 60, No. 27, 7748–7750) indicated that the Forest Supervisor was the responsible official. The responsible has now been changed to the Regional Forester, Jack A. Blackwell.

FOR FURTHER INFORMATION CONTACT: Leon Jadlowski, Acting Yankee Fork District Ranger, HC 67 Box 650, Clayton, ID 83227. Telephone (208) 838–3300.

Dated: July 13, 1998.

Christopher L. Pyron,

Deputy Regional Forester, Administration.

[FR Doc. 98–19073 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 17, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed.

Base Supply Center

Fort Bliss, Texas
NPA: San Antonio Lighthouse, San Antonio, Texas

Janitorial/Custodial

Naval Hospital and Dental Clinic, Naval Education and Training Center, Buildings 1, 23, 44, 46, 1121 and 1173, Newport, Rhode Island
NPA: Newport County Chapter of Retarded Citizens, Inc., Middletown, Rhode Island

Warehouse Operation

Department of Veterans Affairs, Service and Distribution Center, Building 37, Hines, Illinois
NPA: Jewish Vocational Service & Employment Center, Chicago, Illinois

Beverly L. Milkman,
Executive Director.

[FR Doc. 98–19140 Filed 7–16–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE, BLIND OR SEVERELY DISABLED

Procurement List; Proposed addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to the Procurement List commodity to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 17, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will result in authorizing small entities to furnish the commodity to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity has been proposed for addition to Procurement List for production by the nonprofit agency listed:

Contamination Bag

8105–01–352–1392
NPA: The Lighthouse for the Blind, Seattle, Washington

Beverly L. Milkman,
Executive Director.

[FR Doc. 98–19141 Filed 7–16–98; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: August 17, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 5 and June 5, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 FR 12437 and 30705) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Sling, F/M4 Carbine
1005–01–368–9852
Turkey Baster
M.R. 851

Services

Base Supply Center, Whiteman Air Force Base, Missouri
Grounds Maintenance, Hunton Memorial USARC, 8791 Snouffers School Road, Gaithersburg, Maryland
Grounds Maintenance, Southern Maryland Memorial USARC Center, Meadows, Maryland
Grounds Maintenance, Prince George's County Memorial USARC Center, 6601 Baltimore Avenue, Riverdale, Maryland
Grounds Maintenance, Maus Warfield USARC Center, 1850 Baltimore Road, Rockville, Maryland

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–19142 Filed 7–16–98; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Marine Fisheries Initiative (MARFIN).

Agency Form Number: None.

OMB Approval Number: 0648–0175.

Type of Request: Extension of a currently approved collection.

Burden: 285 hours.

Number of Respondents: 60 (with multiple responses).

Avg Hours Per Response: Ranges between one and four hours depending on the requirement.

Needs and Uses: MARFIN is a competitive Federal assistance program that promotes and endorses programs in the Southeast Region that seek to optimize research and development benefits for U.S. marine fishery resources. Grant funds are available to enhance both recreational and commercial fisheries. Information provided through the grant process is used by the National Marine Fisheries Service to evaluate applications and make funding decisions.

Affected Public: Not-for-profit institutions, individuals, businesses or other for-profit organizations, state, local or tribal government.

Frequency: Annually, semi-annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: July 13, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–19076 Filed 7–16–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Sensors and Instrumentation Technical Advisory Committee; Notice of Closed Meeting

A meeting of the Sensors and Instrumentation Technical Advisory Committee will be held July 28, 1998, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 3, 1997, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 482–2583.

Dated: July 10, 1998.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 98–19106 Filed 7–16–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The NWS is publishing proposed certifications for the consolidation, automation, and closure of the—

(1) Charlotte, North Carolina Weather Service Office (WSO) which will be automated at FAA Weather Observation Service Level A and have its services

consolidated into the future Greenville/Spartanburg and Columbia, South Carolina and Raleigh/Durham, North Carolina Weather Forecast Offices (WFOs);

(2) Fort Wayne, Indiana WSO which will be automated at FAA Weather Observation Service Level B and have its services consolidated into the future Northern Indiana WFO; and

(3) South Bend, Indiana WSO which will be automated at FAA Weather Observation Service Level B and have its services consolidated into the future Northern Indiana WFO.

In accordance with Pub. L. 102–567, the public will have 60-days in which to comment on these proposed consolidation, automation, and closure certifications.

DATES: Comments are requested by September 15, 1998.

ADDRESSES: Requests for copies of the proposed consolidation, automation and closure package should be sent to Tom Beaver, Room 11426, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0300. All comments should be sent to Tom Beaver at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Beaver at 301–713–0300.

SUPPLEMENTARY INFORMATION: In accordance with section 706 of Pub. L. 102–567, the Secretary of Commerce must certify that these consolidations, automations, and closures will not result in any degradation of service to the affected areas of responsibility and must publish the proposed consolidation, automation, and closure certifications in the **Federal Register**. The documentation supporting these proposed certifications includes the following:

(1) A draft memorandum by the meteorologists-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the WSR–88D Radar Commissioning Reports, User Confirmation of Services Reports, and the Decommissioning Readiness Report (as applicable);

(7) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the ASOS Commissioning Report; series of three letters between NWS and FAA confirming that weather services will continue in full compliance with applicable flight aviation rules after ASOS commissioning; Surface Aviation Observation Transition Checklist documenting transfer of augmentation and backup responsibility from NWS to FAA; successful resolution of ASOS user confirmation of services complaints; and an in-place supplementary data program at the responsible WFOs;

(8) Warning and forecast verification statistics for pre-modernized and modernized services which were utilized in determining that services have not been degraded;

(9) An Air Safety Appraisal for offices which are located on an airport; and

(10) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Pub. L. 102–567. In December 1995 the Committee decided that, in general, they would forego the optional consultation on proposed certifications. Instead, the Committee would just review certifications after the public comment period had closed so their consultation would be with the benefit of public comments that had been submitted.

This notice does not include the complete certification package because it is too voluminous to publish. Copies of the certification package and supporting documentation can be obtained through the contact listed above.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certification. At the June 25, 1997 MTC meeting the Committee stated that its endorsement of certifications is ''subject to the following qualifications:

''(1) The number of trained staff in each modernized field office meets staffing requirements as established by the modernization criteria and documented in the National Implementation Plan and the Human Resources Plan (WBS 1100). Delays in training or failure to fill required positions will increase the risk of degradation of service;

''(2) The availability of operational systems in each modernized field office meets requirements as established by the modernization criteria and documented in the System Commissioning and Support Function Demonstration Plans; and

''(3) The operational and administrative infrastructures and technical development needed to support the modernized field offices be maintained as required by the modernization plan.'' These qualifications have been met for the above proposed certifications. If a decision to certify is made, the Secretary of Commerce must publish final certifications in the FR and transmit the certifications to the appropriate Congressional committees prior to consolidating, automating, and closing this office.

John J. Kelly, Jr.,

Assistant Administrator for Weather Services.

[FR Doc. 98–19042 Filed 7–16–98; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070798A]

Marine Mammals; File No. 481–1464 and 782–1355

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

ACTION: Receipt of applications for permit and amendment

SUMMARY: Notice is hereby given that Dr. W. John Richardson, LGL Ltd. Environmental Research Associates, 22 Fisher St., P.O.B. 280, King City, Ontario L7B 1A6, Canada has applied in due form for a permit to take bowhead whales (*Balaena mysticetus*), ringed seals (*Phoca hispida*), bearded seals (*Erignathus barbatus*) and beluga whales (*Delphinapterus leucas*) for purposes of scientific research; and Dr.

Douglas P. DeMaster, Director, National Marine Mammal Laboratory, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070, has requested an amendment to scientific research Permit No. 782–1355.

DATES: Written or telefaxed comments must be received on or before August 17, 1998.

ADDRESSES: The application (File No. 481–1464), amendment request (Permit No. 782–1355), and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, National Marine Fisheries Service, NOAA, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit application and amendment to Permit No. 782–1355, issued on July 15, 1997 (62 FR 39826) are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Dr. Richardson (File No. 481–1464) requests authorization to study the feeding ecology of bowhead whales in the eastern Alaskan Beaufort Sea through aerial surveys and sampling of prey species.

Permit No. 782–1355 authorizes the permit holder to take Pacific Harbor seals (*Phoca vitulina*) in the following manner: Harass during census flights; capture, restrain, measure (weight length, girth), sample (flipper punch, vibrissa, blood, blubber/muscle biopsy, ultra sound, enema), radio tag, flipper tag, and release 500 animals; and incidentally harass up to 2000 during the conduct of these activities, and during collection of scat samples from haulouts. The permit holder requests authorization to: increase the number of seals instrumented with time-depth recorders, biopsy sampled, and harassed.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 7, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–19122 Filed 7–16–98; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Wednesday, July 22, 1998, 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 2000 Budget Request

The Commission will consider issues related to the Commission's budget for fiscal year 2000.

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) 504–8000.

Dated: July 13, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–19267 Filed 7–15–98; 2:48 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: Monday, July 27, 1998, 2:00 p.m.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

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: July 14, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–19268 Filed 7–15–98; 2:48 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE Senior Demonstration of Military Managed Care

AGENCY: Office of the Assistant Secretary of Defense (Health Affairs).

ACTION: Notice of demonstration project.

SUMMARY: This notice is to advise interested parties of a demonstration project in which the Department of Defense (DoD) will provide health care services to Medicare-eligible military retirees in a managed care program, called TRICARE Senior, and receive reimbursement for such care from the Medicare Trust Fund. The program is authorized by section 1896 of the Social Security Act, amended by section 4015 of the Balanced Budget Act of 1997 (P.L. 105–33). The statute authorizes DoD and the Department of Health and Human Services (HHS) to conduct at six sites during January 1998 through December 2000, a three-year demonstration under which dual-eligible beneficiaries will be

offered enrollment in a DoD-operated managed care plan, called TRICARE Senior Prime. The legislation also authorizes Medicare HMOs to make payments to DoD for care provided to HMO enrollees by military treatment facilities (MTFs) participating in the demonstration. This part of the demonstration, to be called Medicare Partners, will allow DoD to enter into contracts with Medicare HMOs to provide specialty and inpatient care to dual-eligible beneficiaries currently provided on a space-available basis. Additional legal authority pertinent to this demonstration project is 10 U.S.C. section 1092.

Under TRICARE Senior Prime, Medicare-eligible military retirees who enroll in the program will be assigned primary care managers (PCMs) at the MTF. Enrollees will be referred to specialty care providers at the MTF and to participating members of the existing TRICARE Prime network. TRICARE Senior Prime enrollees will be afforded the same priority access to MTF care as military retiree and retiree family member enrollees in TRICARE Prime.

DoD will receive reimbursement from HCFA on a capitated basis at a rate which is 95 percent of the rate HCFA currently pays to Medicare-risk HMOs, less costs such as capital and graduate medical education, disproportionate share hospital payments, and some capital costs, which are already covered by DoD's annual appropriation. However, under the authorizing statute, DoD must meet its current level of effort for its Medicare-eligible beneficiaries before receiving payments from the Medicare Trust Fund. That is, DoD must continue to fund health care at a certain expenditure level for its Medicare-eligible population before it may be reimbursed by HCFA for care provided to TRICARE Senior Prime enrollees.

The Balanced Budget Act of 1997 required DoD and HHS to complete a memorandum of agreement (MOA) specifying the operational requirements of the demonstration project. That MOA was completed on February 13, 1998, and is published below. Except as provided in the MOA, TRICARE Senior Prime will be implemented consistent with applicable provisions of the CHAMPUS/TRICARE regulation, particularly 32 CFR sections 199.17 and 199.18.

EFFECTIVE DATE: July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Larry Sobel, Office of the Assistant Secretary of Defense (Health Affairs/TRICARE Management Activity), telephone (703) 681–1742.

Dated: July 10, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–P

MEDICARE DEMONSTRATION OF MILITARY MANAGED CARE

-- MEMORANDUM OF AGREEMENT --

The Department of Health and Human Services (DHHS), the Health Care Financing Administration (HCFA), the Department of Defense (DoD) and the Office of the Assistant Secretary of Defense (Health Affairs) (OASD(HA)) agree to conduct a demonstration project under which DHHS will reimburse DoD from the Medicare Trust Funds for certain health care services provided to Medicare-eligible military (dual-eligible) beneficiaries at a military treatment facility (MTF) or through contracts. This demonstration will be referred to as the TRICARE Senior Project.

TRICARE Senior will consist of two types of health care delivery systems: TRICARE Senior Prime and Medicare Partners. Under TRICARE Senior Prime, the Medicare program will treat the DoD and its Military Health System (MHS) similar to a Medicare+Choice plan for dual-eligible Medicare/DoD beneficiaries. Medicare will pay for dual-eligibles enrolled in the DoD managed care program after DoD meets its current level of effort, measured in terms of health care expenditures for the dual-eligible population. Under Medicare Partners, DoD will receive payment from Medicare+Choice plans under Part C of title XVIII of the Social Security Act with which DoD contracts for inpatient and physician specialty care services provided to Medicare-eligible military beneficiaries who are enrolled with the Medicare+Choice plans.

The goal of this demonstration is, through a joint effort by DHHS and DoD, to implement a cost-effective alternative for delivering accessible and quality care to dual-eligible beneficiaries while ensuring that the demonstration does not increase the total federal cost for either agency.

TERMS OF THE AGREEMENT

The Department of Health and Human Services and the Department of Defense agree to carry out a Medicare demonstration of military managed care under the following terms.

A. TRICARE SENIOR PRIME

1. LEGAL AUTHORITY

This demonstration project is conducted under the authority of section 1896 of the Social Security Act, as added by section 4015 of the Balanced Budget Act of 1997 (P.L. 105-33).

2. SITES SELECTED AND POPULATION COVERED

a) TRICARE Senior Prime will be offered at six sites: 1) Keesler Air Force Base, Biloxi, MS; 2) Wilford Hall Medical Center and Brooke Army Medical Center, San Antonio, TX; Fort Sill, Lawton OK; and Sheppard Air Force Base, Wichita Falls, TX; 3) Fort Carson and the Air Force Academy, Colorado Springs, CO; 4) Madigan Army Medical Center, Fort Lewis, WA; 5) Naval Medical Center San Diego, San Diego, CA; and 6) Dover Air Force Base, Dover, DE. For the purpose of this demonstration, the catchment areas for San Antonio, Fort Sill, and Sheppard Air Force Base will comprise one site.

b) Eligibility for participation in TRICARE Senior Prime consists of people who (during the demonstration):
- Are covered through Medicare's aged program by Medicare Part A and Medicare Part B and are eligible for care from DoD as described in section 1074(b) or 1076(b) of title 10 United States Code (i.e., the demonstration excludes Medicare beneficiaries who are disabled or eligible for ESRD benefits),
- Enroll in TRICARE Senior Prime,
- Agree to receive covered services through TRICARE,
- Are residents of the geographic areas covered by the demonstration and where enrollment in the demonstration is offered, and
- Are a dual-eligible who, as a dual-eligible, used a Military Treatment Facility before January 1, 1998, or became dual-eligible starting after December 31, 1997.

c) Participation of Medicare-eligible military retirees or dependents in TRICARE Senior Prime shall be voluntary.

3. SERVICES COVERED AND PATIENT COPAYMENTS

Services covered include the standard Medicare benefit in addition to specific TRICARE Prime benefits. Specific benefits and patient copayments are defined in Attachment A -- "Benefits" to this final agreement as signed by the Secretaries. Patient copayments are also defined in Attachment A. TRICARE Senior Prime enrollees will not be charged a premium during the first year of the demonstration. DoD's intention is not to require a premium in the second or third years of the demonstration unless necessary to maintain cost neutrality. If DoD decides to require a premium, such premium will be subject to HCFA's Adjusted Community Rate (ACR) process.

4. SERVICES PROVIDED

The provision of services for those beneficiaries enrolled in TRICARE Senior Prime is the responsibility of DoD and services are either provided directly by DoD or arranged and paid for by DoD.

5. ENROLLMENT

a) DHHS authorizes DoD to enroll dual-eligible beneficiaries, using TRICARE Senior Prime, in the Medicare demonstration.

b) DoD will offer enrollment to dual-eligible beneficiaries eligible under this demonstration.
c) Enrollees must pay applicable cost sharing and agree that TRICARE Senior Prime will be the exclusive source of health care for enrolled beneficiaries. Beneficiaries who choose to enroll in TRICARE Senior Prime will be subject to all Medicare+Choice requirements, including the "lock-in" provision which prevents plan enrollees from using their fee-for-service Medicare benefits.

6. APPLICATION OF CONDITIONS OF PARTICIPATION APPLICABLE TO MEDICARE+CHOICE PLANS

DoD will meet the applicable requirements of a Medicare+Choice plan. The TRICARE Senior Prime requirements are defined in Attachment B of this agreement. The Secretary of DHHS may waive, to the extent authorized by section 1896(d) of the Social Security Act, the requirement or approve equivalent or alternative ways of meeting the requirement when it reflects the unique status of DoD and is necessary to carry out the demonstration of TRICARE Senior Prime. A description of the requirements waived under section 1896(d) appears at Attachment B.

The DoD and DHHS Secretaries certify that DoD has sufficient resources and expertise to provide, consistent with payments described in Paragraph 7 below, the full range of benefits required to be provided to beneficiaries under the project and sufficient information and billing systems in place to ensure the accurate and timely submission of claims for benefits and to ensure that providers of such services, physicians, and other health care professionals are reimbursed by the entity in a timely and accurate manner. Certification of individual sites will be subject to HCFA's approval process.

7. MEDICARE REIMBURSEMENT TO DOD

Medicare reimbursement and end-of-year reconciliation is based on the following provisions as defined further in Attachment C -- "Reimbursement"

a) Prior to being eligible for Medicare reimbursement under this demonstration in a given year, DoD will commit to the expenditure of resources for dual-eligible beneficiaries at a level that represents the DoD's FY96 level of effort at all demonstration sites.
b) Skilled nursing facility and home health costs, not a DoD benefit, paid by DoD for enrollees below the level of effort will be counted toward the level of effort.
c) For each demonstration year and each demonstration site, DoD and HCFA will establish a threshold for triggering interim payments during the demonstration year, expressed as a total annual dollar amount. That annual threshold will be 30 percent of the site's level of effort during the first demonstration year (pro-rated for the actual number of months of care delivery at each site), 40 percent during the second year, and 50 percent in the third. The total annual amount will be used to establish monthly dollar thresholds for triggering interim reimbursement. The monthly threshold at each site will be one-twelfth the annual threshold amount. For each demonstration month, HCFA will determine what it would pay each site for all enrollees, using the modified per capita reimbursement rates established by law. If HCFA's calculated amount exceeds

the monthly reimbursement threshold for a site, then HCFA will reimburse DoD for the amount over the threshold. If the amount that HCFA should pay the site is less than the monthly reimbursement threshold, then DoD will not receive any reimbursement for that site for that month. The reimbursement rate by Medicare to DoD is 95 percent of the applicable Medicare+Choice rate as determined under the Balanced Budget Act of 1997 (P.L. 105-33). In accordance with the authorizing legislation, the Medicare+Choice rate for each county will be adjusted to remove payments for graduate medical education (GME), indirect medical education (IME) and disproportionate share hospital (DSH). In accordance with the agreement by both Secretaries, 67 percent of capital payments will be removed. If requested by DoD and authorized by law, the Secretaries will reevaluate these latter adjustments based upon the recommendations of a demonstration evaluator or another public or private organization mutually acceptable to DHHS and DoD. Over the three years of the demonstration, the evaluation will track the rate and evaluate it against the primary goal of the demonstration.

d) As required by the Balanced Budget Act of 1997, the maximum total Medicare reimbursement to DoD from both Medicare and Medicare Partners for any demonstration year for all six demonstration sites will not exceed $50 million in the first year, $60 million in the second, and $65 million in the third. This is designed to avoid creating an artificial limitation on the demonstration and to limit the total risk to the Medicare Trust Fund. No more than 50 percent of the cap in each year shall be available for Medicare Partners. DoD will receive no payments after the maximum reimbursement amount has been reached in each demonstration year. For 1998, the $50 million ceiling shall be prorated based on the estimated enrollment at each site and the number of months that each site is operational during 1998. The ceiling for 1998 will be determined when the last site to begin in 1998 becomes operational.

e) At the end of each demonstration year, DHHS and DoD will conduct a reconciliation process. The purpose of the reconciliation is to determine whether DoD is entitled to retain reimbursements that they received under this demonstration and to determine the amount that they should retain. The reconciliation will not adjust for "underpayments" or "overpayments" that result from inefficiency or efficiency. The reconciliation process is described in detail in Attachment C: Reimbursement.

- If DoD and DHHS agree that favorable or adverse selection into the DoD plan is occurring, HCFA will recalculate what Medicare's payments should have been and adjust total payments accordingly, consistent with applicable law.
- If DoD received capitation payments from Medicare and its actual costs were less than the FY96 level of effort, DoD reimburses Medicare for all funds received under the demonstration project (TRICARE Senior Prime and Medicare Partners). For the purpose of this test, expenses for all six sites are combined and compared with a combined six-site level of effort. The contributions from individual sites toward total expenses include expenses for space available care and expenses for enrolled care. Expenses for space-available care for the demonstration-wide test will be capped at a limit that varies with demonstration year. The limit will be 70 percent of the combined six-site level of effort for the first demonstration year, 60 percent the second year, and 50 percent the third. The limit during the first year will be prorated for the months of care delivery at the various sites as described in Appendix C.

- To retain reimbursements received under the demonstration project, expenses for enrolled care, summed across all six demonstration sites, must meet or exceed a minimum threshold that varies with the demonstration year. The threshold is 30 percent of the combined six-site level of effort for the first demonstration year, 40 percent for the second year, and 50 percent for the third.
- HCFA auditors and the DHHS IG will have access to DoD's facilities and data. HCFA and DoD will develop a process for settling any disputes that arise over the data.
- DoD will submit encounter data to HCFA for all Medicare-covered services provided to TRICARE Senior Prime beneficiaries under the demonstration.

8. LEVEL OF EFFORT

a) For the purposes of this demonstration, DoD's level of effort at each site is the actual level of effort expended by DoD on dual-eligible beneficiaries for FY96. During the first demonstration year, this will be pro-rated at each demonstration site for the number of months of care delivery. That level of effort will remain constant for the three years of the demonstration except in the following instances: 1) If for the demonstration years, overall defense health spending (Category 3 of the Defense Health Program (See definition in "Level of Effort" attachment; currently about $12 billion)), updated with an annual adjustment by the applicable composite inflation rates, changes by more than $100 million, then DoD may adjust the level of effort at each site by a proportionate amount (e.g., if the budget is $400 million lower or higher, and defense health spending (Category 3) amounts to $12 billion, the level of effort will fall or rise by approximately 3.3 percent). 2) If there are any base realignment and closure (BRAC) actions that result in reductions in DoD's ability to serve dual-eligibles, an adjustment will be made in the level of effort so as to hold DoD harmless.

b) The FY96 level of effort for each site consists of expenses incurred against the Defense Health Program for services covered under the demonstration for dual-eligible beneficiaries who are eligible to enroll in the demonstration (as specified in "Sites Selected and Population Covered"). During each demonstration year, level of effort consists of the same expenditure categories plus care provided to enrollees (i.e., enrollees below level of effort) under the demonstration.

c) The methodology for computing the FY96 level of effort for each site is described in Attachment D -- "Level of Effort."

d) The FY96 level of effort for each site will:
   - Exclude outpatient pharmacy expenses and Uniformed Services Treatment Facilities costs.
   - Treat DoD collections from Medicare supplemental policies the same in both the baseline and the operational level of effort. Both agencies agree to reexamine this issue if there is a substantial change in collections during the demonstration.
   - Take a "Population View" (versus a "Facility View"), based on the population eligible to enroll in the demonstration as specified under "Population Covered."
   - Either include relevant "F" account costs from DoD's Medical Expense and Performance Reporting System (MEPRS) or directly adjust for the Institute for Defense Analysis (IDA) "add-on" factor, as specified in Attachment D. Over an

eighteen month period, DoD will validate IDA's findings regarding MEPRS cost factors and the size of the add-on factors.

e) For purposes of reconciliation, the test of whether DoD achieved its level of effort is conducted at a demonstration-wide level. The DoD's level of effort will be the sum of the six individual levels of effort.

9. PROHIBITION AGAINST INCREASING MEDICARE COST

The demonstration project shall not increase the total cost of the Medicare program over what the cost would have been in the absence of the demonstration. If the DoD or DHHS Secretaries find that the expenditures under the Medicare program increased (or are expected to increase) during a fiscal year because of the demonstration project, the Secretaries shall take such steps as may be needed to recoup for the Medicare program the amount of such increase in expenditures and to prevent any such increase in the future. Such steps shall include payment of the amount of such increased expenditures by the Secretary of Defense from the current medical care appropriation of the Department of Defense to the trust funds, the suspension or termination of the demonstration project (in whole or in part), or lowering the amount of payment to DoD.

10. JOINT ANALYSIS OF COST, UTILIZATION AND OTHER DATA

DHHS and DoD agree to carry out analyses of a merged data set of dual-eligibles based on questions (including utilization and cost prior to and during the demonstration) developed jointly by the two agencies. DHHS and DoD agree that the DHHS Secretary shall have access to all data the DHHS Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

11. EVALUATION

a) In addition to the General Accounting Office review referenced in Item 12 below, the demonstration shall be evaluated by an independent evaluator chosen jointly by DHHS and DoD, funded by DoD and in place as soon as possible following the start of the demonstration.

b) The evaluation contractor will produce an annual report, an interim report within 18 months of the initiation of this demonstration, and a final report not later than twelve months from the end of the demonstration. The evaluation will be based on the evaluation questions jointly developed by DHHS and DoD as illustrated in Attachment E – "Evaluation". Of those questions, the primary evaluation question will be "Can DoD and Medicare implement a cost-effective alternative for delivering accessible and quality care to dual-eligible beneficiaries?" The evaluation will also emphasize the four major areas identified by DHHS and DoD in delineating the evaluation questions. The evaluation will also examine the impact of the demonstration on medical services for active duty and active duty dependents.

c) DHHS and DoD will provide the necessary data to support the evaluation.

12. GENERAL ACCOUNTING OFFICE STUDY

Section 1896(k) of the Social Security Act directs the General Accounting Office (GAO) to conduct a review and report to Congress as to whether or not the demonstration has increased the total cost of the Military Health System or the total cost of Medicare. Both agencies agree to jointly assist GAO with that review and report.

13. START DATE AND DURATION

The demonstration is authorized for three years and will end on December 31, 2000. Both Departments anticipate that the demonstration sites will become operational according to a phased schedule, to be published separately.

14. ADDITIONAL PROVISIONS

a) Military Treatment Facilities - No new military treatment facilities will be built and no existing facilities will be expanded with funds from the demonstration project.
b) Report - At least 60 days prior to the commencement of the demonstration project, the DoD and DHHS Secretaries shall submit a copy of this agreement to the Congressional committees of jurisdiction over the two departments.
c) Crediting of Payments - A payment received by the Secretary of Defense under the demonstration project shall be credited to the applicable DoD medical appropriation (and within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Defense during the fiscal year in which the payment is received.
d) Inspector General - Nothing in this agreement shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of section 1896 of the Social Security Act and all other relevant laws.
e) Modification of TRICARE Contracts - In carrying out the demonstration project, the Secretary of Defense is authorized to amend existing TRICARE contracts (including contracts with designated providers) in order to provide the Medicare health care services to the Medicare-eligible military retirees and dependents enrolled in the demonstration project consistent with Part C of title XVIII of the Social Security Act as amended by sec. 4001 of the Balanced Budget Act of 1997.
f) This MOA will be amended as necessary following the publication of regulations for Medicare+Choice plans.
g) All automated systems will comply with federal laws, guidances, and policies for information systems security. These include, but are not limited to, the Privacy Act of 1974, the Computer Security Act of 1987, IRM Circular #10, DHHS Automated Information Systems Security Program, the HCFA Information Systems Security Policy and Program Handbook, and other HCFA systems security policies. All information systems will have a security plan. This security plan will be developed during the systems development phase, in accordance with the mandates of the Office of Management and Budget's Circular A-130, revised.

B. MEDICARE PARTNERS

1. LEGAL AUTHORITY

This demonstration project is conducted under the authority of section 1896(h) of the Social Security Act, as added by section 4015 of the Balanced Budget Act of 1997 (P.L. 105-33).

2. POPULATION COVERED

a) All sites may conduct the Medicare Partners portion of the demonstration.
b) Eligibility for participation in Medicare Partners consists of people who (during the demonstration):
   - Are covered through Medicare's aged program by Medicare Part A and Medicare Part B and are eligible for care from DoD as described in section 1074(b) or 1076(b) of title 10 United States Code (i.e., the demonstration excludes Medicare beneficiaries who are disabled or eligible for ESRD benefits),
   - Are enrolled in a Medicare+Choice plan with which DoD has contracted,
   - Are residents of the geographic areas covered by the demonstration and where enrollment in the demonstration is offered,
   - Are dual-eligible beneficiaries, who, as dual-eligibles, used a military treatment facility before January 1, 1998, or became dual-eligible starting after December 31, 1997, and
   - Agree to receive covered services through a Medicare+Choice plan and to use the MTF for covered services only as referred by a Medicare+Choice plan under contract with a demonstration site.
c) Participation of Medicare-eligible military retirees or dependents in Medicare Partners shall be voluntary.

3. SERVICES COVERED UNDER MEDICARE+CHOICE PLAN CONTRACTS WITH DOD

a) Medicare+Choice plans are authorized to contract with and reimburse DoD for inpatient and physician specialty care services provided to dual-eligible beneficiaries. To the extent feasible and subject to capacity constraints, DoD may contract with Medicare+Choice plans which meet applicable HCFA requirements. DoD and HCFA will review and approve all MTF agreements with Medicare+Choice plans. Services covered include those inpatient and physician specialty care services for which DoD has contracted with the Medicare+Choice plan.
b) Priority access for dual-eligibles to the MTF shall apply only to those services for which the participating Medicare+Choice plan has contracted with DoD and is subject to the availability of resources at the MTF. Priority access to the MTF for contracted services shall be the same for Medicare Partners enrollees as for CHAMPUS-eligible retirees enrolled in TRICARE Prime.

4. SERVICES PROVIDED

The provision of services for beneficiaries enrolled in a Medicare Partners plan is the responsibility of the participating plan in which the beneficiary has enrolled. MTFs in the demonstration sites will provide services to Medicare Partners enrollees according to the terms of the contracts reached between the participating Medicare+Choice plans and the MTFs.

5. ENROLLMENT

a) Dual-eligible beneficiaries may enroll in a Medicare+Choice plan which has a Medicare Partners agreement with DoD according to the procedures established by the plan in compliance with HCFA requirements.
b) DoD shall establish procedures to identify in its own data systems enrollees in a Medicare Partners plan.
c) Supplemental or modified marketing materials produced by a Medicare Partners plan in connection with services offered to dual-eligible enrollees shall be reviewed and approved by DoD and HCFA.

6. APPLICATION OF CONDITIONS OF PARTICIPATION APPLICABLE TO MEDICARE+CHOICE PLAN PROVIDERS

DoD will meet the applicable requirements, except as waived by HCFA, of a contract health care provider to a Medicare+Choice plan.

7. REIMBURSEMENT

Reimbursements under Medicare Partners contracts will be specific to each agreement and subject to approval by DoD and HCFA as specified in Section B, paragraph 3a. All reimbursements from Medicare Partners count toward the annual maximum reimbursement described in Section A, paragraph 7.d). No more than 50 percent of the cap in each year shall be available for Medicare Partners. The method for determining the amount of Medicare Partners reimbursement retained by DoD or returned to HCFA is described in Attachment C. To the extent feasible, the portion of DoD reimbursement from Medicare Partners attributable to graduate medical education, indirect medical education, disproportionate share, and capital, for which DoD has received appropriated funds and which has been included in HCFA's payment to the Medicare+Choice plan, will be identified and returned to HCFA as part of the annual reconciliation process.

8. LEVEL OF EFFORT

Any costs arising from services provided under Medicare Partners will not count toward the demonstration's total level of effort. In addition, DoD will not retain any reimbursement for Medicare Partners unless it exceeds the demonstration's total level of effort.

9. PROHIBITION AGAINST INCREASING MEDICARE COST

The demonstration project shall not increase the total cost of the Medicare program over what the cost would have been in the absence of the demonstration. If the DoD or DHHS Secretaries find that the expenditures under the Medicare program increased (or are expected to increase) during a fiscal year because of the demonstration project, the Secretaries shall take such steps as may be needed to recoup for the Medicare program the amount of such increase in expenditures and to prevent any such increase in the future. Such steps shall include payment of the amount of such increased expenditures by the Secretary of Defense from the current medical care appropriation of the Department of Defense to the trust funds, the suspension or termination of the demonstration project (in whole or in part), or lowering the amount of payment to DoD.

10. JOINT ANALYSIS OF COST, UTILIZATION, AND OTHER DATA

DHHS and DoD agree to carry out analyses of a merged data set of dual-eligibles based on questions (including utilization and cost prior to and during the demonstration) developed jointly by the two agencies. DHHS and DoD agree that the DHHS Secretary shall have access to all data the DHHS Secretary determines is necessary to conduct independent estimates and audits of the maintenance of effort requirement, the annual reconciliation, and related matters required under the demonstration project.

11. EVALUATION

a) In addition to the General Accounting Office review referenced in Item 12 below, the demonstration shall be evaluated by an independent evaluator chosen jointly by DHHS and DoD, funded by DoD and in place as soon as possible following the start of the demonstration.
b) The evaluation contractor will produce an annual report, an interim report within 18 months of the initiation of this demonstration, and a final report not later than twelve months from the end of the demonstration. The evaluation will be based on the evaluation questions jointly developed by DHHS and DoD as illustrated in Attachment E -- "Evaluation". Of those questions, the primary evaluation question will be "Can DoD and Medicare implement a cost-effective alternative for delivering accessible and quality care to dual-eligible beneficiaries?" The evaluation will also emphasize the four major areas identified by DHHS and DoD in delineating the evaluation questions. The evaluation will also examine the impact of the demonstration on medical services for active duty and active duty dependents.
c) DHHS and DoD will provide the necessary data to support the evaluation.

12. GENERAL ACCOUNTING OFFICE STUDY

Section 1896(k) of the Social Security Act, directs the General Accounting Office (GAO) to conduct a review and report to Congress as to whether or not the demonstration has increased the total cost of the Military Health System or the total cost of Medicare. Both agencies agree to jointly assist GAO with that review and report.

13. START DATE AND DURATION

The demonstration is authorized for three years and will end on December 31, 2000. Both Departments anticipate that Medicare Partners sites will become operational no earlier than 90 days after the start of health care delivery under TRICARE Senior Prime at that site, subject to the satisfactory progress of the TRICARE Senior Prime program as demonstrated through meeting the requirements of Attachment F- "Performance Measures" and evidence that adequate financial systems to track level of effort and reimbursement are in place.

14. ADDITIONAL PROVISIONS

a) Military Treatment Facilities - No new military treatment facilities will be built and no existing facilities will be expanded with funds from the demonstration project.
b) Report - At least 60 days prior to the commencement of the demonstration project, the DoD and DHHS Secretaries shall submit a copy of this agreement to the Congressional committees of jurisdiction over the two departments.
c) Crediting of Payments - A payment received by the Secretary of Defense under the demonstration project shall be credited to the applicable DoD medical appropriation (and within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Defense during the fiscal year in which the payment is received.
d) Inspector General - Nothing in this agreement shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of section 1896 of the Social Security Act and all other relevant laws.
e) All automated systems will comply with federal laws, guidances, and policies for information systems security. These include, but are not limited to, the Privacy Act of 1974, the Computer Security Act of 1987, IRM Circular #10, DHHS Automated Information Systems Security Program, the HCFA Information Systems Security Policy and Program Handbook, and other HCFA systems security policies. All information systems will have a security plan. This security plan will be developed during the systems development phase, in accordance with the mandates of the Office of Management and Budget's Circular A-130, revised.

C. ATTACHMENTS

Included as part of this agreement are the following items:

Attachment A: Benefits under TRICARE Senior Prime
Attachment B: Applicable Conditions of Participation under TRICARE Senior Prime
Attachment C: Reimbursement
Attachment D: Level of Effort
Attachment E: Evaluation

Attachment F: Performance Measures

Nancy-Ann Min DeParle
Administrator
Health Care Financing Administration
Department of Health and Human Services

Edward D. Martin
Acting Assistant Secretary of Defense
(Health Affairs)
Department of Defense

Donna Shalala
Secretary
Department of Health and Human Services

William Cohen
Secretary
Department of Defense

BILLING CODE 5000–64–C

Attachment A—Benefits for Enrollees; Medicare Demonstration of Military Managed Care

DoD will provide or arrange for the provision of a defined benefit package for enrollees in the Demonstration. The benefit package will include all services and supplies covered by the Medicare program, plus some additional services not covered by Medicare. The TRICARE Prime program will be the vehicle for delivery of the benefit package, except that standard Medicare coverage of skilled nursing facility care, home health care, and chiropractic services will apply. Additional services in the TRICARE Prime program that are not covered by Medicare include outpatient pharmacy services and preventive services. In brief, the benefit package includes coverage of medically necessary care as follows:

Medical Services

- Physician's services;
- Medical and surgical services and supplies;
- Outpatient hospital treatment;
- Mental health outpatient services;
- Physical and speech therapy;
- Clinical laboratory services and diagnostic tests;
- Durable medical equipment and supplies;
- Blood;
- Clinical preventive services;
- Outpatient pharmacy services.

Institutional Services

- Hospitalization: semiprivate room and board, general nursing and other hospital services and supplies;
- Skilled nursing facility care: semiprivate room and board, skilled nursing and rehabilitative services and other services and supplies;
- Home health care;
- Hospice care.

Cost sharing for services is described in the attached charts. It is anticipated that most services will be provided in military treatment facilities, at no charge to enrollees. When enrollees use a civilian provider, a copayment schedule will apply, featuring a $12 per visit copayment, an $11 per diem charge for most inpatient services, and a $9 per prescription charge.

Attachment A

BENEFITS FOR PRIME-ENROLLED MEDICARE ELIGIBLES: - MEDICAL INSURANCE SERVICES

SERVICES	BENEFIT	YOU PAY WITH CIVILIAN PROVIDER	YOU PAY AT MTF
MEDICAL EXPENSES Doctors' services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, and other services.	Unlimited if medically necessary.	$12 per visit (or $12 each for bills from separate entities coincident to a visit).	Nothing.
MENTAL HEALTH OUTPATIENT	Unlimited if medically necessary.	$25 per visit	Services not normally available at MTF
CLINICAL LABORATORY SERVICES Blood tests, urinalyses, and more.	Unlimited if medically necessary.	$12 per set of lab services (Nothing if provided as part of an office visit).	Nothing.
DURABLE MEDICAL EQUIPMENT AND SUPPLIES	Unlimited as long as you meet Medicare conditions.	20% of fee negotiated by the contractor for durable medical equipment.	Nothing; however availability may be limited at MTF.
OUTPATIENT HOSPITAL TREATMENT Services for the diagnosis or treatment of illness or injury.	Unlimited if medically necessary.	$30 for emergency room visit (waived if admitted), $25 copayment for ambulatory surgery.	Nothing.
BLOOD	Unlimited if medically necessary.	No additional cost beyond visit.	Nothing.
PHARMACY	Unlimited if medically necessary.	$9 per prescription.	Nothing.
CLINICAL PREVENTIVE SERVICES Comprehensive and targeted health promotion and disease prevention examinations and immunizations.	Age specific schedule to be determined, similar to Prime for younger enrollees	Nothing.	Nothing.
No separate copayment/cost share for separately billed inpatient professional charges.			

Attachment A

BENEFITS FOR PRIME-ENROLLED MEDICARE ELIGIBLES: HOSPITAL INSURANCE SERVICES

SERVICES	BENEFIT	YOU PAY WITH CIVILIAN PROVIDER	YOU PAY AT MTF
HOSPITALIZATION (except mental health) Semiprivate room and board, general nursing and other hospital services and supplies.	Same as Medicare	$11 a day ($25 minimum).	Nothing.
MENTAL HEALTH HOSPITALIZATION	Same as Medicare 150 day limit per hospitalization	$40 per diem	Inpatient mental health services not normally available at MTF.
SKILLED NURSING FACILITY Semiprivate room and board, skilled nursing and rehabilitative services and other services and supplies.	First 20 days Additional 80 days Beyond 100 days	Same as Medicare: Nothing Up to $95 a day All costs	Services not normally available at MTF.
HOME HEALTH CARE Part-time or intermittent skilled care, home health aide services.	Unlimited as long as you meet Medicare conditions.	Same as Medicare: Nothing for services.	Services not normally available at MTF.
HOSPICE CARE Pain relief, symptom management and support services for the terminally ill.	As long as doctor certifies need.	Same as Medicare for inpatient respite care: Limited costs. For outpatient drugs: $9 prescription.	Services not normally available at MTF.
BLOOD When furnished by a hospital or skilled nursing facility during a covered stay.	Unlimited if medically necessary.	No additional cost beyond hospitalization.	No additional cost beyond hospitalization.
No separate copayment/cost share for separately billed inpatient professional charges.			

Attachment B

Medicare Demonstration of Military Managed Care
Attachment B -- HCFA HMO Requirements
(Applicable Conditions of Participation)

ADMINISTRATIVE AND MANAGEMENT

HCFA Requirement:	Determination:
1. The HMO/CMP must have administrative and managerial arrangements satisfactory to HCFA, as demonstrated by at least the following: A policy making body that exercises control over the HMO/CMP's policies and personnel to ensure that management actions are in the best interest of the HMO/CMP and its enrollees. **42CFR417.124(a)(1)**	General policy is established at the DoD level by the Assistant Secretary of Defense for Health Affairs and the Surgeons General of the respective services. Policy is conveyed through the services to the Lead Agent to the Military Medical Treatment Facility (MTF). At the MTF level, and as delegated by the Surgeons General, the MTF Commander executes DoD policy and may establish additional policy for administration and operation of the facility. The Commander and MTF Executive Body (management, department, medical staff, nursing) plan, direct, coordinate, provide and improve health care services. MTF Commanders are active duty officers whose appointment and removal are under the control of the Service to which they belong and the Surgeon General. The Commander, Executive Body, and other organizational leaders meet routinely to provide organization, direction, and staffing for patient care and support services. Information flows within and among departments and disciplines to ensure that required data are provided efficiently for patient care and management at all levels. DoD will meet requirements for ensuring that staff and management are adequately informed and following program requirements. The MTFs will provide training to staff and providers regarding the Medicare product. New or revised Medicare requirements will be disseminated as revisions to the manual through Health Affairs to the Lead Agent.
2. The HMO\CMP has personnel and systems sufficient for the HMO/CMP to organize, plan, control, and evaluate the financial, marketing, health services, quality assurance program, administrative and management aspects of the HMO/CMP. **42CFR417.124(a)(2)**	These requirements are fulfilled through a collaborative process of support from specific offices within Health Affairs, the Lead Agent, and the Military Treatment Facilities (MTFs).

Attachment B

HCFA Requirement:	**Determination**
3. The HMO/CMP's operations are managed by an executive whose appointment and removal are under the control of the HMO/CMP policymaking body. **42CFR417.124(a)(3)**	The Lead Agent is responsible for the integration, coordination and monitoring the implementation of TRICARE within the Region. Local operation of the Medicare demonstration will be the responsibility of the MTF Commanders. MTF Commanders are active duty officers whose appointment and removal are under the command and control of the Service to which they belong and the Surgeon General.
4. The HMO/CMP has effective procedures to develop, compile, evaluate, and report statistical and other information to the Secretary of DHHS. **42CFR417.126**	DoD provides support for the demonstration at every level, including a management information system capable of providing appropriate information. DoD's Corporate Executive Information Center (CEIS) is the center of the data collection effort and is our official source of demonstration data. The CEIS Program Office is staffed with experts that have the ability to develop, compile, evaluate, and report statistical and other information to the Secretary of DHHS.
5. The HMO/CMP has sufficient administrative capability to carry out the requirements of its Medicare contract. **42CFR417.412(a)**	Internal policy and procedures manual relative to the Medicare product will be available within the MTF. Staff and providers are provided informational materials and training in Medicare requirements such as denials and appeals. Health Affairs, through the Lead Agent, provides information to MTFs on any new or revised Medicare requirement. The MTF provides updates to staff and providers.
6. The HMO/CMP does not have any agents or management staff or persons with ownership or control interests who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare, or social services programs under Title XX of the Act. **42CFR417.412(b)**	DoD health care facilities are government owned. DoD's personnel policies prohibit the continued employment in health care programs of an individual convicted of a criminal offense involving any other health care program.
7. Medicare/Medicaid enrollees do not exceed 50 percent of the HMO/CMP enrollment in the geographic area of the contract. **42CFR417.413(d)(1)**	TRICARE Prime enrollment levels are sufficient to ensure DoD compliance with this requirement.

Attachment B

HCFA Requirement:	Determination:
8. Regarding the Patient Self Determination Act, the HMO/CMP has written policies and procedures which: 1) inform enrollees of their rights under State law with respect to advance directives (living wills/durable power of attorney), and how those rights are implemented: 2) documented in the medical record whether or not the enrollee has executed an advance directive: 3) ensure compliance with State law; 4) do not condition provision of care/or discriminate on whether enrollee has executed advance directive; and 5) provide for education of staff/community regarding advance directive. **OBRA 1990 (PL 101-508)**	MTFs meet JCAHO standards for Patient Rights and Organization Ethics in both hospital and ambulatory settings. MTFs have policy regarding advance directives and a process to educate staff. MTFs will provide education on the PSDA to enrollees and staff members through marketing and education programs. Documentation requirements of the existence of living wills or durable power of attorney will be met during the enrollment process and upon each inpatient admission.

FISCAL SOUNDNESS

HCFA Requirement:	Determination:
9. The HMO/CMP's most recent balance sheet reveals a positive net worth as demonstrated by total assets being greater than total unsubordinated liabilities. **42CFR417.120(a)(1)(i)**	Not applicable.
10. The HMO/CMP has sufficient cash and adequate liquidity to meet obligations as they become due. **42CFR417.120(a)(1)(ii)**	Not applicable.

Attachment B

HCFA Requirement:	**Determination:**
11 The HMO/CMP has a net operating surplus, or a financial plan acceptable to Office of Managed Care (OMC), to achieve net operating surplus within available resources. **42CFR417.120(a)(1)(iii)**	Not applicable.

INSOLVENCY PROTECTION PLAN

HCFA Requirement:	**Determination:**
12. The HMO/CMP has a plan for handling insolvency which allows for continuation of benefits for the duration of the contract period for which payment has been made and continuation of benefits to enrollees who are confined on the date of insolvency in an inpatient facility until their discharge. **42CFR417.120(a)(1)(iv), 417.122(a)**	All obligations are backed by the full faith and credit of the Department of Defense. Where DoD uses contracted providers to complete their networks, those contracts will include standard NAIC-approved hold harmless language. Also, DoD will demonstrate compliance with the requirements for continuation of benefits in these arrangements.

Attachment B

COST REPORTING/ADJUSTED COMMUNITY RATE
Risk Based Contractors

HCFA Requirement:	Determination:
13 The HMO/CMP submits an ACR proposal to HCFA for review and approval. **42CFR417.594**	DoD will submit an ACR proposal for each site, prepared on a consistent basis, for HCFA review and approval.

UTILIZATION MANAGEMENT (UM)

HCFA Requirement:	Determination:
14. The HMO/CMP has effective procedures to monitor utilization of appropriate health services and to control costs of basic and supplemental health services to achieve utilization goals. **42CFR417.103(b)**	DoD will meet these requirements through the integration of the Medicare HMO enrollees into TRICARE, DoD's managed care program. The MTF will apply the same utilization and access process applicable under TRICARE, the DoD Utilization Management Policy for the Direct Care System, to the Medicare demonstration, including use of a single point of entry for all referrals. Routine referral reports are monitored by the MTF and LA.

Attachment B

INCENTIVE ARRANGEMENTS

HCFA Requirement:	**Determination:**
15. The HMO/CMP will disclose physician incentive plan arrangements. **42CFR417.479**	DoD will disclose physician incentive plan (PIP) arrangements using the HCFA disclosure form as required for all Medicare contractors. This includes disclosure of MTF-salaried physicians and arrangements with outside contractors.

HEALTH SERVICES DELIVERY SYSTEM

HCFA Requirement:	**Determination:**
16. The HMO/CMP arranges for required Medicare services, and supplemental services which the Medicare enrollee has contracted for through Medicare-approved providers and suppliers. **42CFR417.101(a), 417.416(b)**	MTFs will provide the majority of health care services directly, either in the MTF or in the network of providers in place for their other TRICARE enrollees (to the extent that required services are available from Medicare certified providers within the network). For services not available within the network, the MTF through the Managed Care Support contractor, will arrange for services from other Medicare certified providers in the community. - Criteria for Selection of Network Providers).
17. HMO/CMP physicians and other practitioners must meet Medicare statutory definitions and licensure requirements. **42CFR417.416(a)**	Only licensed physicians and other practitioners who are legally authorized to provide services (physical therapists, nurse practitioners, physician assistants, clinical social workers, qualified psychologists, speech-language pathologists, etc.) will participate in this demonstration. However, DoD does not require physicians and other practitioners to be licensed or legally authorized in the State in which they currently practice. Compliance with this requirement is not feasible because DoD's unique mission of rapid deployment and backfill worldwide would be significantly hampered by this requirement. Under the authority of section 1896(d)(1) of the Social Security Act, waivers of sections 1861(r), 1861(p)(4)(B), 1861(aa)(5), 1861(gg)(1), 1861(hh)(1)(C)(i), 1861(ii), and 1861(ll)(3)(A)(i) of the Social Security Act are granted except that physicians and other practitioners must be licensed or

Attachment B

	legally authorized to provide services in at least one State.
18. Institutional providers are Medicare-certified and meet conditions of participation. **42CFR417.124(h), 417.416(b)**	Participating MTFs will be deemed to meet the conditions of participation since they are JCAHO accredited. Inpatient care not provided at the MTF will be through TRICARE network institutional providers that are Medicare certified providers.

Attachment B

AVAILABILITY AND ACCESSIBILITY OF SERVICES

HCFA Requirement:	**Determination:**
19. All required and other services which Medicare enrollees contracted for are accessible, with reasonable promptness, to the enrollees with respect to geographic location, hours of operation, and provision of after-hours service; and, medically necessary emergency services must be available twenty-four hours a day, seven days a week. **42CFR417.106(b), 417.416(e)(1), HMO Manual §2303.**	As a general rule, DoD will utilize the same access standards that apply for TRICARE Prime for TRICARE Senior Prime, e.g., emergency services available and accessible within the service area 24 hours a day, 7 days a week, no more than 30 minute wait time in the office, appointment wait time for specialty care is no longer than 4 weeks, beneficiary travel time to PCM is no longer than 30 minutes, etc. Specific service area information will be provided as part of the application process. Enrollees will be informed through the Member Handbook. However, DoD's policy for access to a MTF has traditionally been a 40-mile area around the MTF. Historically, beneficiaries residing within that 40-mile area have been required to obtain a non-availability statement from the MTF in order to access the civilian provider community for many health care services. DoD will use this same area as the service area. Enrollees will be informed about HCFA's 30-minute/30-mile PCM access standard, and DoD will obtain waivers of this standard from enrollees who reside beyond the 30-minute/30-mile boundary.

Attachment B

MAINTENANCE OF MEDICAL RECORDS AND CONTINUITY OF CARE

HCFA Requirement:	Determination:
20. The HMO/CMP ensures continuity of care through arrangements that include: (1) use of a health professional who is primarily responsible for coordinating the enrollee's overall health care; (2) a system of health and medical records that accumulates pertinent information about the enrollee's health care and makes it available to appropriate professionals; and (3) arrangements made directly through the HMO/CMP's providers to ensure that the HMO/CMP or the health professional who coordinates the enrollee's overall health care is kept informed about the services that the referral resources furnish to the enrollee. **42CFR417.106(c), 42CFR417.416(e)(2)**	DoD will meet this requirement. DoD's plans for meeting this requirement will be described more fully in its application to HCFA.

QUALITY ASSURANCE (QA) (ASSESSMENT AND IMPROVEMENT)

***Denotes critical element - an element that the HMO/CMP must meet.**

HCFA Requirement:	Determination:
21. The HMO/CMP has an ongoing QA program for its health services that meets the conditions described in: QA01a; QA01b, QA01c; QA01e; and QA01f, below. QA01a: Written QA Plan QA01b: Continuous QA Activities QA01c: Review by Board of Directors QA01d: Delegation of QA functions QA01e: Active QA Committee QA01f: Systematic Process.	DoD has a corporate program for ensuring quality of care in the MHSS which addresses all of the HCFA critical elements listed above. In addition, each site has a QA program which satisfies HCFA requirements.

Attachment B

QA PROGRAM STRESSES HEALTH OUTCOMES

HCFA Requirements:	**Determination:**
22. The HMO/CMP's ongoing QA program for its health services stresses health outcomes to the extent consistent with the state of the art. **42 CFR 417.106(a)(1) and 417.418(b); FQ HMO Manual § 4200, 4201.2**	The DoD QA program meets the requirements of this section through the special studies component of the National Quality Management Program. The studies emphasize best practice. Best practice is achieving the desired clinical outcomes with the most efficient use of resources. May also be found on the World Wide Web (http://www.ha.osd.mil).

PEER REVIEW

HCFA Requirements:	**Determination:**
23. The HMO/CMP's ongoing QA health services review program provides for review by physicians and other health professionals of the process followed in the provision of health services. **42 CFR 417.106(a)(2) and 417.418(b); FQ HMO Manual § 4201, 4201.3**	The DoD requires that all of the military hospitals and clinics and all civilian network hospitals be accredited by the Joint Commission on Health Care Organizations (JCAHO). The JCAHO standards for medical staff functions and improving organization function require physician and other health care practitioner review of care. In addition, the special studies discussed above are designed by physicians and other health care practitioners and final reports are used by the hospitals and clinics to catalyze a review and improvement of their care.

Attachment B

SYSTEMATIC DATA COLLECTION

HCFA Requirements:	Determination:
24. The HMO/CMP's ongoing health services QA program systematically collects performance data and patient results, interprets these data to its practitioners, and institute needed change. **42 CFR 417.106(a)(3) and 417.418(b); FQ HMO Manual § 4201, 4201.4**	These data are collected and reviewed at the Lead Agent and MTF levels. The MTFs are supported by MCS contractor data collection and analysis of the appropriateness of the care provided to beneficiaries. In addition, the MCS contractor performs regional quality studies over the term of the contract. The National Quality Monitoring Program special studies include all care provided by the military facilities and civilian network facilities.

REMEDIAL ACTION (CONTINUOUS QUALITY IMPROVEMENT)

HCFA Requirements:	Determination:
25. The HMO/CMP's ongoing QA program for its health services includes written procedures for taking appropriate remedial action whenever, as determined under the QA program, either inappropriate or substandard services have been provided or services which it should have furnished but did not provide. **42 CFR 417.106(a)(4) and 417.418(b); FQ HMO Manual § 4201, 4201.5**	DoD will meet HCFA's requirements for an ongoing QA program.

Attachment B

EXTERNAL REVIEW BY PEER REVIEW ORGANIZATION (PRO)

HCFA Requirements:	**Determination:**
26. Compliance with PRO Review. The HMO/CMP agrees to: (1) comply with the requirements for PRO review of services furnished to Medicare enrollees: (2) upon the PRO's request, provide onsite access to or copies of medical records for the PRO to carry out its functions; and (3) maintain a written Memorandum of Understanding (MOU) he PRO for review of its health care services.	The MTF will execute a MOU with the designated HCFA PRO and comply with these requirements.

MARKETING ACTIVITIES

HCFA Requirements:	**Determination:**
27. The HMO/CMP offers its benefit plan to all Medicare-beneficiaries and provides prospective enrollees adequate written description of its rules, procedures, benefits, and other charges, services, and other necessary information for the beneficiary to make an informed decision about enrollment. **42 CFR 417.428(a) (1)**	Marketing materials will be developed centrally within Health Affairs with site specific information and will clearly describe the benefit plan, rules, procedures, charges, etc. DoD will submit marketing materials to HCFA for review and approval. Approved materials will be provided to prospective enrollees on enrollment and updated annually.
28. The HMO/CMP publicizes the annual open season and all enrollment periods, whether of limited or continuous duration, through appropriate media. The HMO/CMP has at least one continuous 30-day open enrollment period annually. **42 CFR 417.428(a) (2) and 42 CFR 417.426(a)**	DoD will market to Medicare eligible MHSS beneficiaries within the catchment area of participating MTFs. DoD will conduct a 30 day open enrollment season annually. Enrollment will be continuous for applicants on the waiting list as space becomes available through attrition.
29. The HMO/CMP provides a written copy of the most current member rights to the enrollee at the time of enrollment and annually thereafter. **42 CFR417.436(a) and (b)**	DoD will meet this requirement.

Attachment B

HCFA Requirement:	Determination:
30. Application forms are submitted to HCFA for approval prior to use and comply with HCFA instructions regarding format and content. **42 CFR 417.430(a); HMO Manual § 2001.5 and Exhibit 1, §2099.**	DoD will meet this requirement.

PROHIBITED MARKETING ACTIVITIES

HCFA Requirement:	Determination:
31. In offering its HMO/CMP to Medicare beneficiaries, the HMO/CMP does not engage in discriminatory practices including attempts to discourage participation on the bases of age, race, or attempt to enroll persons from a high income area if a comparable effort is not made to enroll persons from lower income areas. **42 CFR 417.428(b) (1)**	DoD will meet this requirement.
32. The HMO/CMP does not engage in activities which mislead, confuse, or misinterpret (e.g., HMO/CMP may not claim recommendation or endorsement by HCFA or that HCFA recommends that the person enroll in the organization; HMO/CMP may not make erroneous written or oral statement including any statement, claim, or promise that conflicts with, materially alters, or erroneously expands upon the information contained in HCFA-approved materials) **42 CFR 417.428(b) (2)**	DoD will meet this requirement.
33. The HMO/CMP does not offer gift or payment as an inducement to enroll in the organization. **42 CFR 417.428(b) (3)**	DoD will meet this requirement.
34. The HMO/CMP does not conduct door to door solicitation of Medicare beneficiaries. **42 CFR 417.428(b) (4)**	DoD will meet this requirement.

Attachment B

HCFA Requirement:	**Determination:**
35. The HMO/CMP submits all Medicare marketing materials (e.g., ads, brochures, enrollments and disenrollment notices, subscriber agreements, and other marketing material including those prepared by contracting third parties) to HCFA at least 45 days before their planned distribution. **42 CFR 417.428(a) (3)**	DoD will submit Medicare marketing materials to HCFA at least 45 days before their planned distribution.
36. The HMO/CMP does not distribute Medicare marketing materials if, before the expiration of the 45 day period, it receives written notice from HCFA has disapproved the materials because it is inaccurate or misleading or it misrepresent the organization, its marketing representative or HCFA. **42 CFR 417.428(b) (5)**	DoD will meet this requirement.
37. The HMO/CMP only charges Medicare members for deductible and coinsurance amounts (as describe in 42 CFR 417.452(b)); for furnished covered services; noncovered services or services for which the enrollee is liable (as describe in 42 CFR 417.452(b)); and services for which Medicare is not the primary payer (as provided in 42 CFR 417.528). **42 CFR 417.454(a).**	DoD will meet this requirement.
38. If the HMO/CMP offers its Medicare enrollees an optional supplemental benefit plan which includes charges for deductible and coinsurance amounts, or noncovered services, or both, then the portion of the premium for coinsurance and deductibles applicable to covered services is computed separately and is disclosed to the Medicare beneficiary/applicant before he or she elects coverage options. The sum of the amounts the HMO/CMP charges its Medicare enrollees for noncovered services under Part A or Part B may not exceed the ACR as annually approved by HCFA. **42 CFR 417.452(d)**	DoD offer the TRICARE Prime benefit package to demonstration enrollees, plus specific Medicare services not covered by Prime, i.e., chiropractic services. If DoD offers non-Medicare covered. services through an optional supplemental benefit plan, then DoD will meet this requirement.

Attachment B

APPLICATIONS AND ENROLLMENT
ELIGIBILITY TO ENROLL

HCFA Requirements:	Determination:
39. The HMO/CMP does not deny enrollment on the basis of health status except for ESRD or hospice care election in a Medicare-certified hospice (unless subject to 42CFR417.432 conversions). **42 CFR417.422(b) and HMO Manual 2003.1**	Enrollment personnel have been instructed that applicants will not be denied enrollment on the basis of health status except for ESRD or hospice care election in a Medicare-certified hospice.

APPLICATION FORMS

HCFA Requirements:	Determination:
40. Applications are signed and dated by the enrollee. **42 CFR 417.430(a) HMO Manual 2001.5C**	DoD will meet this requirement. Applications will not be considered completed without the applicant's signature and the date the application was completed.
41. Applications are on file for all current enrollees and are kept for at least one year following an enrollee's disenrollment. **42 CFR 417.430(a)(2); HMO Manual 2001.5C**	DoD will meet this requirement. Completed applications will be retained on file for a minimum of one year.
42. Applicants are given an opportunity to acknowledge that they understand the HMO/CMP's rules and agree to abide by them. **42 CFR 417.422(e); HMO Manual 2001.5C**	DoD will meet this requirement. DoD will provide information to prospective enrollees on the HMO rules. When applicants arrive to complete the application form, the rules will be explained and the applicant will be afforded the opportunity to ask questions about the program. Prior to completing the application, the applicant will certify that they understand and will abide by the rules. Applicants who mail in applications will be contacted by telephone to ensure understanding of the program.

Attachment B

HCFA Requirements:	**Determination:**
43. Applicants are informed (through the application process or pre-enrollment marketing information) that their enrollment will result in disenrollment from another HMO/CMPs Medicare product if they are currently enrolled in another HMO/CMP. **42 CFR 417.422(c); HMO Manual § 2001.5C**	DoD will meet this requirement. The application forms will include a section that explains that enrollment in DoD's HMO will result in disenrollment from other HMO/CMPs Medicare products. Applicants will certify that they understand.

ENROLLMENT PROCEDURES

HCFA Requirements:	**Determination**
44. The HMO/CMP has an effective system in place for receiving, controlling, and processing applications from Medicare enrollees. Applications are dated as of date they are received by the HMO/CMP. Applications are processed in chronological order by date of receipt **42 CFR 417.430(b), (b) (1) and (b) (2); HMO Manual § 2001.6**	DoD will meet this requirement. Applications will be dated , given sequential numbers and processed in the order that they are received.
45. The HMO/CMP notifies the applicant in writing of receipt and/or denial prior to processing. if appropriate, of the application no later than 30 days following receipt of the application. The written notice of receipt specifies the proposed effective date of enrollment; or, if the HMO/CMP is currently enrolled to capacity, explains the procedures that will be followed when vacancies occur. **42 CFR 417.430(b)(3); (b) (4)(i) and (ii); HMO Manual § 2001.6.**	DoD will meet this requirement. DoD will confirm the information on the enrollment form through telephonic interviews and offer in-person interviews. All applicants whose enrollment form information can be verified will receive notification of their status no later than 30 days following receipt of the application. A letter will be sent to applicants who are not reachable by telephone and such applications will be held for at least 35 days before final action is taken.
46. The HMO/CMP provides the applicant with a signed and dated copy of the application form. **HMO Manual § 2001.6**	DoD will meet this requirement. Each applicant will be provided a signed and dated copy of the application form.

Attachment B

HCFA Requirements:	Determination
47. The HMO/CMP transmit the applicant's enrollment information to HCFA within 30 days from the date of application or from the date a vacancy occurs if the latter is due to capacity restrictions (or, within an additional period of time approved by and HCFA) **42 CFR 417.430(b) (6); HMO Manual § 2001.7**	DoD will meet this requirement. HCFA will be provided applicant's enrollment information within 30 days from the date of application or from the date a vacancy occurs.
48. If the application is denied, then the HMO/CMP, within 30 days of application, provides the applicant with a written explanation of the reason for the denial. **42 CFR 417.430(b) (5); HMO Manual § 2001.6**	DoD will provide a written explanation of the reason for the denial, e.g. ESRD, hospice care election in a Medicare-certified hospice, etc. The application will contain a section that explains denial of application. Applicants will certify that they understand this section by initialing the section
49. When the HMO/CMP receives enrollment confirmation from HCFA, it promptly (within 14-30 days) notifies enrollees in writing of the effective date of enrollment, and sends HCFA-approved information on the rules, including benefits and enrollee rights and responsibilities. **42 CFR 417.430(b) (7) and 42 CFR 417.436(b);HMO Manual § 2001.5B**	DoD will meet this requirement. Upon notification from HCFA, DoD will notify enrollees in writing of the effective date of enrollment, and send HCFA-approved information on the rules, including benefits and enrollee rights and responsibilities.
50. When the HMO/CMP is filled to capacity, or closes enrollment following at least a 30-day open enrollment period, it notifies subsequent applicants in writing of the procedures that will be followed when enrollment reopens or vacancies occur. The procedures ensure that vacancies are filled in chronological order. **42 CFR 417.430(b) (8); HMO Manual § 2001.3F**	DoD will meet this requirement. Once enrollment capacity has been reached, prospective enrollees will be notified in writing of the procedures that will be followed when enrollment reopens or vacancies occur. Applicants will be offered the opportunity to be placed on a waiting list.
51. The HMO/CMP adheres to the requirements in requesting retroactive enrollments from the HCFA Regional Office. **HMO Manual § 2002 A and B**	DoD will meet this requirement Retroactive enrollment will be processed only in the event that enrollment was denied because an error or technical problem in the HCFA system resulted in the provision of inaccurate beneficiary information. Such applicants shall be enrolled regardless of capacity limits.

Attachment B

EMPLOYER GROUP APPLICANTS AND ENROLLEES

HCFA Requirements:	**Determination:**
52. RISK HMO/CMPs ONLY (retroactive enrollment only): The HMO/CMP enrolls Medicare Employer Group Health Plan (EGHP) applicants who are enrollees of an employer group plan and certifies that it provided him/her with an explanation of enrollee rights, including the lock-in requirements. **§ 4204(e) OBRA 1990; HMO Manual § 2002 A**	Enrollment will be for Medicare-eligible MHSS beneficiaries who are 65 and over. DoD will not contract with employer groups for the purposes of this demonstration.
53. The HMO/CMP does not exceed the limitation (up to 90 days) which allows HCFA to retroactively adjust Medicare payments to the HMO/CMP to cover the period of time the applicant enrolls through the EGHP and becomes eligible to receive services under the risk contract, and the time the application is received by the HMO/CMP and transmitted to HCFA. **§ 4204(e) OBRA 1990; HMO Manual § 2002 A**	Not applicable.
54. The HMO/CMP accepts as a Medicare enrollee any individual who applies and is enrolled in the HMO/CMP during the month immediately before the month of entitlement to Medicare parts A and B, or Part B only (Conversion). **42 CFR 417.432; HMO Manual § 2003.5**	The MTF will enroll into the TRICARE Medicare Prime program any TRICARE Prime enrollee who becomes eligible for Medicare and who was enrolled in the HMO/CMP with a PCM at the MTF during the month immediately before the month of entitlement to Medicare parts A and B. Those TRICARE Prime enrollees with civilian PCMs in the service area will be given an opportunity to apply for enrollment and will be eligible for the waiting list as appropriate.

HCFA Requirements:	Determination:
55. For "working aged" HMO/CMP enrollees who are employed by groups which are subject to Medicare Secondary Payer regulations, the HMO/CMP only offers premium waiver (or premium reduction) if the enrollee maintains coverage through both the TEFRA risk product and the group product. **§ 4204(g) (1) (C) OBRA 1990**	DoD will meet these requirements.
56. EGHP applicants who live outside of the Medicare service area are given the opportunity to convert into the Medicare HMO/CMP, but are informed in writing of the requirement that they utilize providers within the approved Medicare service area. Such enrollees are not disenrolled due to a "move" outside the service area, unless their residence changes following enrollment. **42 CFR 417.432(c)**	Not applicable.

MEMBERSHIP

HCFA Requirements:	Determination:
57. The HMO/CMP notifies Medicare enrollees of the changes in its rules, at least 30 days before the effective date of the change. **42 CFR 417.436(c)**	DoD will comply with this requirement

Attachment B

PREMIUMS AND OTHER AMOUNTS DUE

HCFA Requirements:	**Determination:**
58. The HMO/CMP does not make changes during the contract year which result in an increase in premiums or a decrease in benefits. If there is a mid-year regulatory change in Medicare programs benefits, the HMO/CMP notifies its enrollees of the added benefits. . **§ 1876(c) (2) (B) of the Social Security Act.**	DoD will comply with this requirement.
59. When the HMO/CMP incorrectly collects premiums and/or other amounts due (as defined in 42 CFR 417.456(a) (1) (2) (3)), it refunds those amounts to Medicare enrollees, or to others who made payments on behalf of such enrollees. **42 CFR 417.456(c) and (d); HMO Manual § 2170.3**	DoD will comply with this requirement. Co-payments will not apply to care provided within the MTF.
60. The HMO/CMP refunds incorrectly collected amounts by lump sum payment and/or by future premium adjustments. **42 CFR 417.456(c) and (d); HMO Manual § 2170.3**	DoD will comply with this requirement

REPORTING AND RECONCILIATION OF RECORDS

61. The HMO/CMP reviews the *HCFA Monthly Transaction Replies/Monthly Activity Report* listings and the *Maintenance Records* upon receipt and appropriately follows up on any change in enrollee's status. **HMO Manual 6004**	DoD will comply with this requirement
62. The HMO/CMP verifies its enrollees' institutional status at the beginning of each month, correctly defines such status, accurately identifies those enrollees that resided in an institution for the full month, and submits such data to HCFA. **HMO Manual 6008A 1**	DoD will comply with this requirement.

Attachment B

RISK-BASED CONTRACTORS ONLY - WORKING AGED

HCFA Requirement:	Determination
63. The HMO/CMP has an effective system in place to track, control, and report enrollees' working aged status. **HCFA Program Updates, October 11 and October 20, 1994.**	The MCS contractor will administer the "HCFA Working Aged Survey" to all new members of TRICARE Senior Prime at the time of enrollment. For dual eligibles who submit applications by mail, the MCS contractor will follow-up in writing or by phone in the event the survey is not submitted or incomplete. Ongoing identification of working aged will be accomplished through an annual survey which will be given to all TRICARE Medicare Prime members. DoD will report working aged data to HCFA by the last workday of the month through the McCOY system. The MCS contractor will verify HCFA data from the common working file upon receipt.

DISENROLLMENT
GENERAL PROCEDURES (Voluntary and Involuntary Disenrollments)

HCFA Requirements:	Determination:
64. The HMO/CMP promptly disenrolls Medicare enrollees upon receipt of their written request (i.e., Disenrollments are effective no earlier than the first day of the month following the month or no later than three months from the date the HMO/CMP receives the request. Enrollees are not required to submit disenrollment requests within a specified time frame in advance of the desired date. Disenrollment requests accepted by the HMO/CMP are signed and dated by Medicare enrollees. If the enrollee is unable to manage his/her affairs, a court-appointed guardian or representative may sign and date the disenrollment request. **42CFR 417.461**	DoD will comply with this requirement. Enrollees will be disenrolled upon receipt of their written request. Enrollees will be disenrolled within 60 days of receipt of written request.

GENERAL PROCEDURES (Involuntary Disenrollments Only)

Attachment B

HCFA Requirements:	**Determination**
65. The HMO/CMP does not, orally or in writing, or by any action or inaction, request or encourage a Medicare enrollee to disenroll except for failure to pay premiums, a move outside the geographic area, fraud or abuse of membership card, failure to convert to the risk contract, loss of Part B, death of the enrollee, or for cause. **42 CFR 417.460(a); HMO Manual § 2004.1**	DoD will comply with this requirement. DoD staff will be informed that Medicare enrollees will not be requested or encouraged to disenroll.
66. The HMO/CMP notifies Medicare enrollees, in writing, of the intent to disenroll them on an involuntary basis and mails such notices to enrollees and allows a reasonable amount of time for the enrollees to respond (at least 29 days following the date of the notice) before the effective disenrollment date and prior to sending notice to HCFA. The notice contains the proposed effective date, a clear explanation of the reason for disenrollment, information on the enrollee's right to a hearing under the HMO/CMP's grievance procedure, and a reminder that the enrollee must receive services through the HMO/CMP until the effective termination date. **42 CFR 417.460 and following; HMO Manual § 2004.9**	DoD will comply with this requirement. DoD will notify enrollees, in writing, of the intent to disenroll on an involuntary basis. Enrollees will be given a reasonable amount of time to respond before the effective disenrollment date and prior to sending notice to HCFA.

Attachment B

INVOLUNTARY DISENROLLMENT - FAILURE TO PAY PREMIUM

HCFA Requirement:	Determination:
67. The HMO/CMP's disenrolls Medicare enrollees who fail to pay premiums or other imposed charges only after demonstrating it made reasonable efforts to collect amounts due. **42CFR417.460(c)(1)(i)**	DoD will comply with this requirement. DoD will disenroll Medicare enrollees who fail to pay premiums or other charges after a reasonable effort to collect has been made.

INVOLUNTARY DISENROLLMENT -ENROLLEE MOVES OUT OF HMO/CMP's GEOGRAPHIC AREA

HCFA Requirement:	Determination:
68. Except as specified in 42 CFR 417.460(a)(2)(iv), the HMO/CMP disenrolls Medicare enrollees who move outside of the approved service area for more than 90 consecutive days. **42CFR417.460(b)(2)**	DoD will comply with this requirement. DoD will disenroll a Medicare enrollee who has moved outside of the approved service area for more than 90 consecutive days.
69. The HMO/CMP makes reasonable efforts to establish that Medicare enrollees have permanently moved from the approved service area. Such efforts are documented in writing or evidence exists in some other form acceptable to HCFA. **42CFR417.460(f); HMO Manual 2004.3**	DoD will comply with this requirement. If DoD believes that an enrollee has permanently moved from the approved service area, it will make reasonable effort verify the moved, e.g., telephone calls to the enrollee, letters to the enrollee, asking the enrollee on the next visit.
70. When the HMO/CMP retains enrollees who leave the service area for more than 90 consecutive days, it agrees in writing with the enrollee on restrictions for obtaining health care; however, restrictions are not imposed on the scope of Medicare-covered services as defined in 42 CFR 417.400. **42CFR417.460(f)**	DoD does not propose to retain enrollees who leave the service area for more than 90 consecutive days.

Attachment B

71. The option to retain Medicare enrollees who are on extended absence from the service area (more than 90 consecutive days) is made available to all enrollees, unless the HMO/CMP is affiliated with other organizations, in which case it limits the option to enrollees who more to a geographic area served by the related organization which has both a contract under section 1876 of the Act and meets the definitions of "affiliated organization." **42CFR417.460(f)(2); Federal Register, Vol.56.No. 178**	DoD does not propose to retain enrollees who leave the service area for more than 90 consecutive days.
72. The HMO/CMP disenrolls enrollees who leave the HMO/CMP's service area for an extended absence and fail to return within one year of the date he or she left the geographic area. **42CFR417.460(f)(2); Federal Register, Vol.56.No. 178**	DoD will comply with this requirement. DoD will disenroll enrollees who leave the service area for an extended absence and fail to return within one year of the date he or she left the geographic area.

INVOLUNTARY DISENROLLMENT -FRAUD OR ABUSE OF MEMBERSHIP CARD.

HCFA Requirement:	**Determination:**
73. Medicare enrollees who are disenrolled for fraud or abuse are only disenrolled if they knowingly provide fraudulent information which materially affects the organization or affects the applicant's eligibility to enroll, or because an enrollee intentionally permits others to use the membership card to receive HMO/CMP services. **42CFR417.460(d)**	DoD will comply with this requirement. DoD will certify all disenrollments for fraud or abuse. These causes will be reviewed to determined if the enrollee knowingly provided fraudulent information or intentionally permitted others to use their membership card to receive services.
74. The HMO/CMP advises HCFA of such disenrollments only after reasonable advance notice is given to enrollees. **42CFR417.460(d)(2)**	DoD will comply with this requirement. DoD will notify HCFA of disenrollments after advance notice is given to enrollees.

Attachment B

HCFA Requirement:	Determination
75. The HMO/CMP maintains documents related to the decision to disenroll and reports these disenrollments to the Office of Inspector General. **42CFR417.460(d)(3)**	DoD will comply with this requirement. DoD will maintain documents related to the decision to disenroll. DoD will report disenrollment for cause to the Office of Inspector General.

INVOLUNTARY DISENROLLMENT -LOSS OF MEDICARE Part A and/or Part B ENTITLEMENT

HCFA Requirement:	Determination:
76. The HMO/CMP disenrolls Medicare enrollees who lose Part B entitlement effective with the month following the last month of such entitlement. **42CFR417.460(h)(2)**	DoD will comply with this requirement. DoD will disenroll enrollees who lose Part B entitlement. The disenrollment will be effective with the month following the last month of entitlement.
77. Enrollees who lose entitlement to Part A, but remain entitled to Part B of Medicare, automatically continue in the HMO/CMP as Part B enrollees. **42CFR417.460(h)(1)**	Compliance with this requirement is not possible because the demonstration project requires participants to be eligible for both Part A and Part B benefits, and DoD will disenroll enrollees who lose entitlement to Part A. Under the authority of section 1896(d)(1) of the Social Security Act, a waiver of this requirement is granted.

INVOLUNTARY DISENROLLMENT -FOR CAUSE

HCFA Requirement:	Determination:
78. The HMO/CMP disenrolls Medicare enrollees for cause only when their behavior is disruptive, unruly, abusive, or uncooperative to the extent that continuing seriously impairs the HMO/CMP's ability to furnish services to either the enrollee or other enrollees. **42CFR417.460(e)(1)**	DoD will comply with this requirement. DoD will disenroll Medicare enrollees for cause when their behavior is disruptive, unruly, abusive, or uncooperative and reasonable efforts have been unsuccessful in resolving the issue.

Attachment B

HCFA Requirement:	**Determination:**
79. The HMO/CMP disenrolls Medicare enrollees for cause only after serious efforts to resolve the problem, including use of internal grievance procedures, consideration of extenuating circumstances, and HCFA's advance approval of the proposed disenrollment. **42CFR417.460(e)(2)**	DoD will comply with this requirement. MTFs will establish, through their internal grievance process, procedures to ensure that appropriate steps have been taken to resolve the problem prior to disenrolling a Medicare enrollee for cause.
80. The HMO/CMP disenrolls enrollees effective the first day of the calendar month after the month in which notice is given to them of the intended action. **42CFR417.460(e)(6)**	DoD will comply with this requirement. DoD will disenroll enrollees effective the first day of the calendar month after the month in which notice is given.

VOLUNTARY DISENROLLMENT

HCFA Requirement:	**Determination:**
81. The HMO/CMP promptly sends a letter to the enrollee acknowledging receipt of the disenrollment request, and includes a copy of the enrollee's written request to disenroll. The letter contains the proposed effective date, and explains that the enrollee must continue to receive health care from the HMO/CMP providers until that date. **42CFR417.460(b)(2)**	DoD will comply with this requirement. DoD will acknowledge receipt of enrollee's disenrollment request. The letter to the enrollee will include a copy of the enrollee's request, a proposed effective date, and an explanation that the enrollee must continue to receive health care from DoD until that date.

Attachment B

CLAIMS PROCESSING

HCFA Requirement:	Determination:
82. The HMO/CMP assumes financial responsibility and provides reasonable reimbursement for emergency services (in and out of area) and urgently needed services (out of area only) that its Medicare enrollees obtain outside the HMO/CMP, even without prior authorization. **42CFR417.414(c)**	DoD will comply with this requirement.
83. The HMO/CMP (including its contracting providers) pays 95 percent of "clean" claims from unaffiliated providers within 30 days of receipt. When clean claims are paid in over 30 days, interest is computed and paid. **Appropriations Bill, October 1992, P.L. 102-394; Sections 1876(g)(6)(A), 1842(c)(2) and 1816(c)(2) of the Social Security Act, and Section 9311 of OBRA 1986.**	DoD will comply with this requirement.
84. The HMO/CMP (including its contracting providers) makes an initial determination within 60 days from receipt of claims (from both affiliated and unaffiliated providers). If the HMO/CMP makes a determination that is wholly or only partially adverse to the enrollee, it notifies the enrollee of its determination (denial) within 60 days from receipt of the claim. To make initial determinations timely, 95 percent of claims are processed within 60 days from the date of receipt. **42CFR417.608(a)**	DoD will comply with this requirement.
85. The HMO/CMP notifies the enrollee of the right to appeal if it has failed to make a determination (adverse) within 60 days of receipt of the claim (i.e., failure to provide notice is deemed an adverse initial determination subject to appeal. **42CFR417.608(c)**	DoD will comply with this requirement.

Attachment B

MEDICARE APPEALS **

HCFA Requirement:	**Determination:**
86. The HMO/CMP establishes, maintains, and follows the appeals procedures and procedures for expedited reviews, and informs all enrollees in writing of the appeals and expedited review procedures for all organization determinations. Information on these processes is clearly described in the HMO/CMP's evidence of coverage (EOC). **42CFR417.600; 417.604; 417.609; 417.617**	DoD will meet this requirement.
87. The HMO/CMP properly defines and identifies complaints that are organization determinations: (1) reimbursement for emergency or urgently needed services; (2) services furnished by nonaffiliated providers or suppliers that the enrollee believes is covered by the HMO/CMP contract and should have been furnished, arranged for, or reimbursed by the HMO/CMP; (3) services which the HMO/CMP refuses to provide that the enrollee believes should be furnished through the HMO/CMP and the enrollee has not received outside the HMO/CMP; and (4) discontinuation or reduction of a service. **42CFR417.606**	DoD will meet this requirement

88. The HMO/CMP makes an organization determination (the HMO/CMP's decision to provide, authorize, deny, or pay for a service, or the discontinuation of a service) within 60 days of the enrollee's request for the service. Failure to provide a notice constitutes an adverse organization determination which the enrollee may appeal (i.e., the situation is deemed adverse). **42CFR417.608**	DoD will meet this requirement.
89. The HMO/CMP's decision to deny payment for claims, refusal to provide or authorize a service, or to discontinue a service is an adverse organization determination. The written notice of an adverse organization	DoD will meet this requirement.

Attachment B

determination: states the specific reasons for the denial; informs the enrollee of the right to a reconsideration, including the right to an expedited reconsideration; includes information regarding availability of legal assistance; provides parties to the reconsideration reasonable opportunity to present evidence relating to the issue in dispute, in person as well as in writing; and includes information explaining that physicians and other health professionals may act on behalf of an enrollee in time-sensitive situations. **HMO Manual 2304.4 42CFR417.608 and 417.618**	
90. The HMO/CMP develops procedures to assure that contracting providers are fully informed of appeals procedures and their responsibility to provide written notice of adverse organization determinations. The HMO/CMP monitors these procedures. **42CFR417.606**	DoD will meet this requirement
91. The HMO/CMP accepts requests for reconsiderations and expedited reconsiderations filed within 60 days of the organization determination. **42CFR417.616**	DoD will meet this requirement
92. The HMO/CMP assures that someone not involved in making organization determination makes the reconsideration (second level of review of an adverse organization determination) decision. **42CFR417.622**	DoD will meet this requirement
93. The HMO/CMP either makes a fully favorable decision and issues a decision within 60 days to the enrollee, or, if the HMO/CMP is unable to make a fully favorable decision, the HMO/CMP forwards the case to HCFA within 60- days from the date of receipt of the reconsideration request and concurrently notifies the beneficiary of the action. **42CFR417.620(b); 417.620(c); and 417.620(f)**	DoD will meet this requirement
94. If HCFA's reconsideration determination is to hold the HMO/CMP liable, then the	DoD will meet this requirement

Attachment B

HMO/CMP provides or pays for the service within 60 days from the date of HCFA's determination. **Article IV, Medicare Contract**	
95. The HMO/CMP's written grievance procedures include: • a thorough explanation of the steps to follow in completing the procedure; and • time limits for each step of the procedure. **42CFR417.600 and 417.124(g)**	DoD will meet this requirement.

Attachment B

HCFA Requirement:	Determination:
96. The HMO/CMP properly identifies issues subject to the grievance process. Anything not subject to appeals is considered a grievance; examples: quality of service provided, long waiting times for appointments or at the physician's office, services covered under an optional supplemental plan, issues relating to premiums, and involuntary disenrollment. **42CFR471.606(c)**	DoD will meet this requirement
97. The HMO/CMP allows physicians and other health professionals to act on behalf of an enrollee in time sensitive situations when an organization determination or reconsideration is being requested. **42CFR417.604(b)(4); 417.609(c)(4); 417.617(c)(4)**	DoD will meet this requirement
98. The HMO/CMP maintains and follows expedited organization decision and reconsideration procedures which include: (1) the receipt of oral requests, followed by written documentation, within two working days, of the oral request; (2) prompt decision-making, i.e., within 72 hours, regarding whether the request will be expedited or handled within the standard 60-day time frame, including timely notification of the enrollee if the request is not expedited.; (3) notification of the enrollee or the physician/health professional, as appropriate, as expeditiously as the enrollee's health condition requires, but within 72 hours of the request of the decision regarding expediting the case, and (4) an extension of up to ten working days for the decision, if requested by the enrollee or if the HMO/CMP finds that additional information is necessary and the delay is in the interest of the enrollee. **42CFR417.609; 417.617**	DoD will meet this requirement
99. The HMO/CMP forwards cases to HCFA within 24 hours of making a decision, or within 72 hours (or the extension period) when no favorable decision is made. **42CFR417.620**	DoD will meet this requirement

BILLING CODE 5000–64–C

Attachment C—Reimbursement

Overview

This attachment, and figures 1 through 19, describe the specific process for Medicare Program reimbursement to the Department of Defense (DoD) and for the end-of-year reconciliation.

Medicare Interim Payments to DoD

Under the demonstration, DoD may receive interim payments for the enrollment and treatment of its dual-eligible beneficiaries. During the execution of the demonstration project during any demonstration year, the department may receive a monthly per-member per-month capitated amount for TRICARE Senior Prime enrollees when the site's enrollment is above a specified threshold. These payments are interim, or provisional, payments. At the end of each demonstration year, a reconciliation will be conducted to determine whether DoD is entitled to keep any of its interim payments, and to determine if the amount of reimbursement was appropriate. This appendix describes the threshold mechanism that triggers the interim monthly payments. Then it describes the reconciliation process.

Thresholds for Reimbursement and Reconciliation

For each demonstration year and each demonstration site, DoD and HCFA will establish a threshold that will determine whether HCFA will reimburse DoD for enrollment at the site and determine the size of the reimbursement. The triggering threshold derives from each individual site's historical level of expenses for its dual eligible beneficiaries, termed the site's ''level of effort''. Calculation of the site's baseline level of effort is described in Appendix D.

The threshold for triggering interim payments from Medicare will be calculated from a portion of each site's level of effort. The portion will be 30 percent of the site's level of effort for the first demonstration year, 40 percent in the second demonstration year, and 50 percent in the third. The 30 percent portion for the first demonstration year will be scaled, or prorated, to the number of months of care delivery at each site. For example, if a site's level of effort was $90 million and delivered care for 5 months of the first demonstration year, the portion used to calculate a reimbursement threshold would be $11.25 million (5/12ths of 30 percent of $90 million).

The monthly threshold that triggers payments will be calculated by dividing the total dollar portion determined in the previous paragraph by the months of care delivery for the site. Continuing the example above, the monthly threshold will be $2.25 million ($11.25 million divided by 5 months).

HCFA will calculate the amount that it would pay for all of DoD's enrollees under the demonstration program at a modified per capita Medicare+Choice reimbursement rate (described in the next section), and compare its calculated amount to the site's monthly threshold. If the calculated amount exceeds the monthly threshold, then HCFA will reimburse DoD for the difference as an interim payment. If the calculated amount is below the monthly threshold, HCFA will not make a payment to DoD for that month. Failure to enroll up to the threshold in a month will also result in an adjustment to interim payments from other months (described under Annual Reconciliation below). Payments for all demonstration sites combined are subject to a global cap for each demonstration year. The caps are $50 million for the first demonstration year, $60 million the second year, and $65 million the third. No more than 50 percent of the cap in each year shall be available for Medicare Partners.

Per Capita Reimbursement Rate

To calculate how much it would pay for TRICARE Senior Prime enrollees in the reimbursement mechanism (described in the previous section), HCFA will use the following rate. The reimbursement rate by Medicare to DoD is 95 percent of the applicable Medicare+Choice rate as determined under the Balanced Budget Act of 1997 (P.L. 105–33) . In accordance with the authorizing legislation, the Medicare+Choice rate for each county will be adjusted to remove payments for graduate medical education (GME), indirect medical education (IME), and disproportionate share hospital (DSH). In accordance with the agreement by both Secretaries, 67 percent of capital will be removed.

Annual Reconciliation

At the end of each demonstration year, DHHS and DoD will conduct a formal reconciliation and evaluation to determine whether (1) all site's are entitled to retain the reimbursements they received from Medicare and (2) whether the amount of reimbursement were appropriate. The reconciliation consists of four steps:

1. Accumulate DoD's Expenses. The first step will be to determine the total amount of DoD expenditures across all six demonstration site for all dual-eligible beneficiaries residing in the service area. Two categories of expense will be accumulated: (1) expenses for care provided on a space-available basis to non-enrolled dual eligible beneficiaries (termed ''space-available level of effort''), and (2) expenses for care provided to enrollees.

Expenses for providing outpatient pharmacy services will not be included in any of the categories; nor will expenses incurred providing services under a Medicare Partners contract for services covered by the contract. Expenses incurred providing services not covered by a Medicare Partners agreement will be counted as space-available care.

Expenses for space-available care are capped at a maximum of 70 percent of the combined level of effort across all six sites during the first demonstration year, 60 percent of the combined level of effort during the second, and 50 percent during the third. Because sites will be starting care delivery at varying time during the first demonstration year, the demonstration-wide cap on space-available expenses will be prorated during the first demonstration year as follows. Each individual site's level of effort will be prorated according to the number of months of care delivery during that first demonstration year. Then, the prorated level's of effort will be added across all six sites. Finally, 70 percent of the six site total will be used for the first year space-available cap.

2. Determine Eligibility for Reimbursement. The second step will be to determine whether the demonstration sites are eligible to retain any reimbursements from Medicare. There are two tests; both must be passed. The first compares total expenditures for all six sites, both for enrolled and for space available care, to DoD's combined level of effort for all sites. For any site to be eligible to retain reimbursements from HCFA, DoD must reach its combined level of effort.

The second test compares DoD's expenditures for enrolled care across all demonstration sites against a minimum threshold that varies by demonstration year. The threshold is 30 percent of the combined six-site level of effort during the first demonstration year, 40 percent during the second, and 50 percent during the third. Again, the first year threshold on expenses for enrolled care will be prorated by the number of months of care delivery during that year in the manner similar to the way the threshold for space-available care is prorated (described in 1. above).

3. Determine Amount of Reimbursement. If DoD has met its level of effort for all demonstration sites, reimbursements from HCFA are subject to two adjustments. First, gross monthly payments from HCFA to a site will be summed over all months of a demonstration year (months of care delivery for the first demonstration year). The difference between this sum and the level of effort target will be the annual reimbursement that DoD is entitled to keep at each site. If the difference is negative, DoD will return all payments received to HCFA. This adjustment is performed at each site.

Second, total reimbursements from HCFA may be adjusted upwards or downwards during reconciliation if there is compelling evidence of adverse or favorable risk selection in DoD's enrollment, when compared with the HCFA population upon which the Medicare+Choice rates are based. The determination will be made analytically during as part of the reconciliation process and will be based upon submitted claims for covered services.

Third, DoD is only entitled to retain reimbursement above the aggregate level of effort. The level of effort will be prorated during the first demonstration year on the basis of months of care delivery at the various sites.

4. Provide Access to Data. The final step will be to provide HCFA auditors and the DHHS IG with access to DoD's records and data for demonstration sites. HCFA and DoD will develop a mutually acceptable process for settling any disputes that arise over the data.

Maximum Ceiling on Total Annual Medicare Reimbursement

For the demonstration project, the maximum total Medicare reimbursement to DoD for all six demonstration sites in any demonstration year shall not exceed $50

million in calendar year 1998, $60 million in calendar 1999, and $65 million in calendar year 2000. The cap for the first demonstration year will be prorated as described below. All reimbursements received by DoD for dual-eligible enrollees from Medicare or from Medicare Partners will count towards the annual ceiling. Should Medicare reimbursement to DoD meet the statutory cap in any of the project's three years, DoD will remain obligated to continue to provide the full range of services under the TRICARE Senior Prime benefit to all project enrollees. DoD will be financially liable for all care provided under TRICARE Senior Prime once the annual reimbursement cap is reached. No more than 50 percent of the cap in each year shall be available for Medicare Partners.

For 1998, the $50 million ceiling shall be prorated based on the estimated enrollment at each site and the number of months that each site is operational during 1998. The ceiling for 1998 will be determined when the last site to begin in 1998 becomes operational.

At the end of each month, DoD will report to HCFA all revenue that it has received during that month from Medicare+Choice plans. HCFA will track payments for TRICARE Senior Prime enrollees. If the annual cap for that year was exceeded in a prior month, DoD will remit all such revenue for each succeeding month to HCFA.

BILLING CODE 5000–04–P

Establish Thresholds for Payment

- Split the level of effort at each site to establish a threshold for triggering reimbursement.
- Method for splitting:
  - » Split on a percentage basis.
  - » 30 percent of a site's level of effort for the first demonstration year, 40 percent the second year, and 50 percent the third.
- First year's threshold at each site is prorated by that sites number of months of care delivery during the first demonstration year.

Figure 1

Establish Reimbursement Threshold

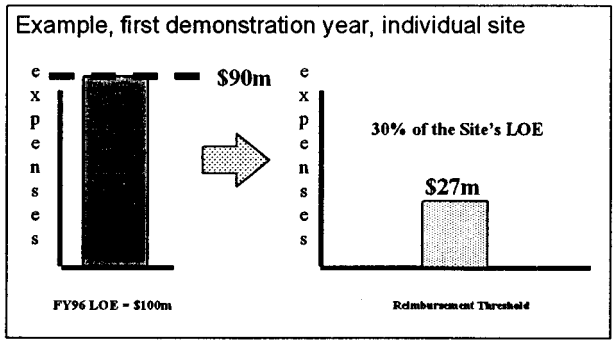

Figure 2

Attachment C

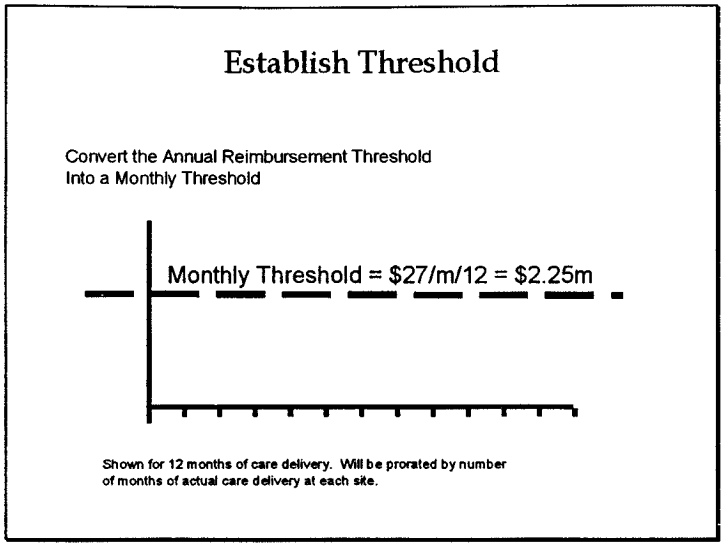

Figure 3

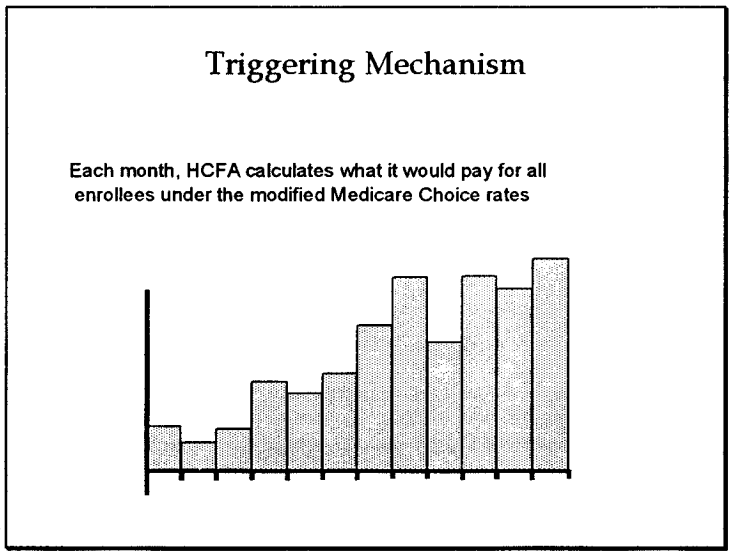

Figure 4

Attachment C

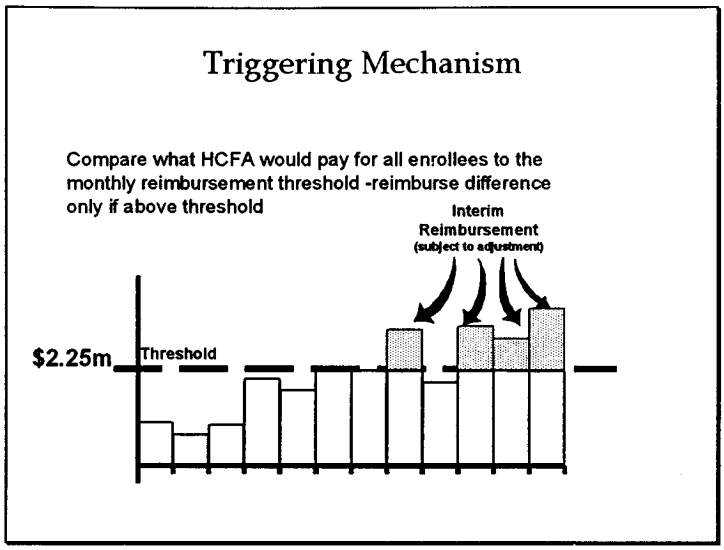

Figure 5

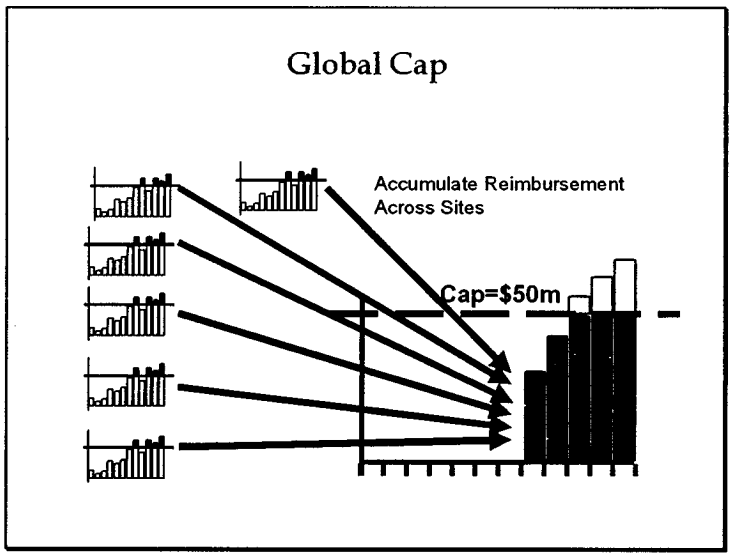

Figure 6

Attachment C

Reconciliation for Each Site

- Based upon actual expenses during execution year.
- Two Issues addressed during reconciliation:
  - » Did DoD reach the combined LOE? Determines entitlement for reimbursement.
  - » Was the amount of reimbursement appropriate?
- Steps:
  - » 1. Accumulate expenses in two categories across all sites: expenses for Space-Available Care and expenses for Enrolled Care.
  - » 2. Test whether the combined six-site LOE was met.
  - » 3. Determine whether reimbursement amount was correct.

Figure 7

Tests for Meeting LOE

Two tests:

- Did the combined expenses for space-available care (capped) and expenses for enrolled care meet or exceed total LOE.
- Did expenses for enrolled care at all six sites exceed the minimum threshold for the demonstration (30%, 40%, or 50% of the combined six-site LOE in years 1, 2, and 3, with year 1 prorated).

Figure 8

Attachment C

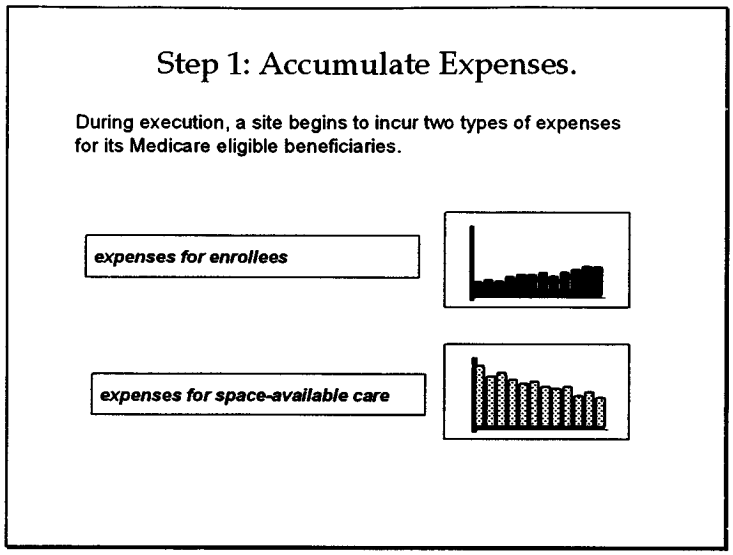

Figure 9

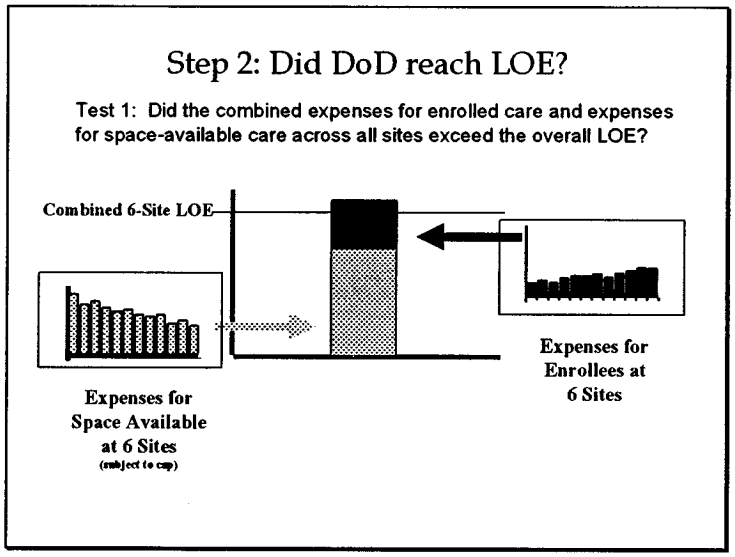

Figure 10

Attachment C

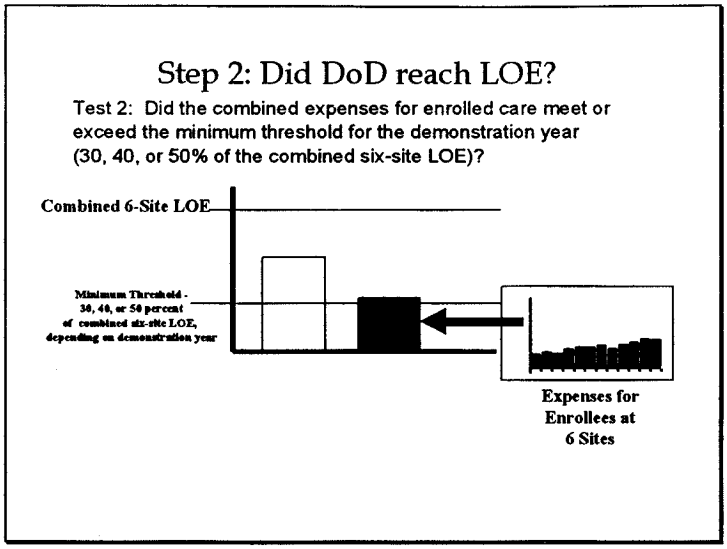

Figure 11

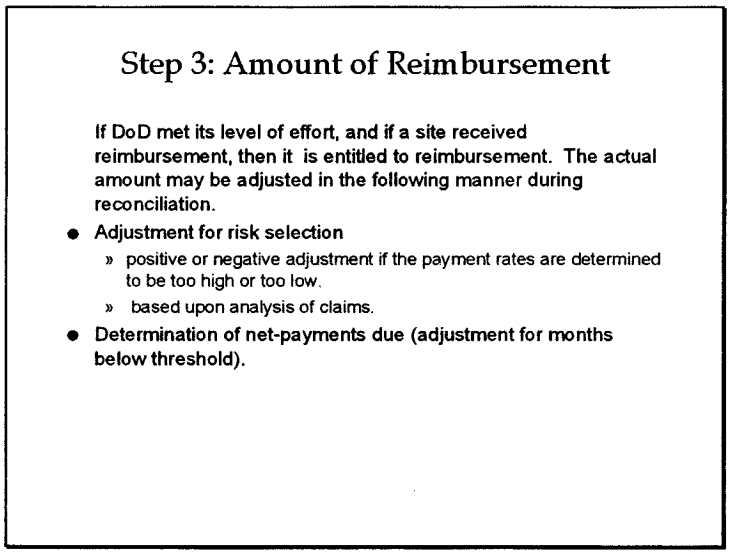

Figure 12

Attachment C

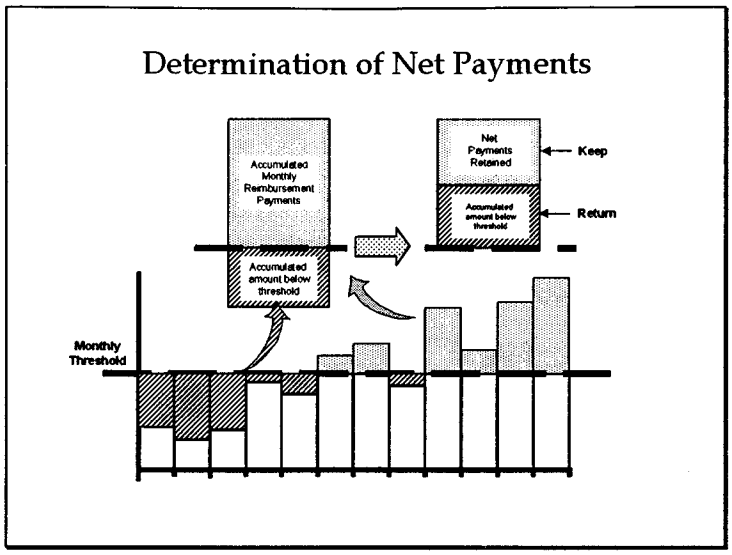

Figure 13

Medicare Partners

- Expenses for services covered by a Medicare Partners contract are not counted toward enrolled care or space-available care in meeting LOE.
- Expenses incurred by Medicare HMO enrollees for service not covered by a Medicare Partners contract are space-available care for meeting LOE.
- If DoD does not meet its LOE, all reimbursements from all Medicare Partners contracts will be returned to HCFA.

Figure 14

BILLING CODE 5000–04–C

Attachment D—Level of Effort

Introduction

Purpose

This attachment describes the methodology that the Department of Defense (DoD) will use to compute the FY96 ''level of effort'' (LOE) for each Medicare Demonstration site.

General Principles for Establishing Medicare Level-of-Effort

DoD will compute the FY96 level-of-effort (historical expenditures for its Medicare eligible beneficiaries) separately for the service area of each Medicare Demonstration site. Service areas will be defined by lists of specific zip-codes for each site. Expenses will be accumulated from a population perspective; they will be the sum of all applicable DHP expenses for all dual eligible beneficiaries living in the zip-codes defining the site, regardless of where in the Military Health System those expenses were incurred.[1]

The LOE will include most direct expenses for inpatient and outpatient care provided by military Medical Treatment Facilities (MTFs), with some additional burdening (explained in detail below) . It will also include the government's costs of care for Medicare eligibles referred to providers in networks operated by the Department's Managed Care Support Contractors. The FY96 LOE excludes any DoD expenses comparable to those removed from the Medicare+Choice rates as a result of the Balanced Budget Act of 1997 (e.g., expenses for Graduate Medical Education), or any types of care specifically excluded by agreement between DoD and HCFA (outpatient pharmacy costs). The FY96 LOE will also exclude DoD's monthly payments for dual-eligible enrollees of Uniform Services Treatment Facilities (USTFs) residing in the service area, unless they participate.

It is the agreement of the administering Secretaries that FY96 will be the baseline.

Detailed Methodology

This section presents the separate methodologies used to estimate inpatient and ambulatory expenses.

Terminology

Medicare Demonstration Sites. In accordance with current legislation, six sites will be picked for the Medicare Demonstration. A service area for each site will be defined geographically by a specific list of zip-codes.

IDA Add-on. In an analysis performed for the ''733 Study,'' the Institute for Defense Analysis (IDA) determined that certain expenses should be added to the clinical expenses reported in the Medical Expense and Performance Reporting System (MEPRS). Based upon their analyses, they estimated the amounts that should be added to inpatient and outpatient clinical expenses as a percentage add-on to the expenses routinely reported in the clinical accounts. Their recommended adjustments are presented in Table 1.

Patient-Level Cost Allocation. The methodology that DoD is evolving to estimate expenses at the level of the individual patient encounter. That methodology is described in a separate document to be provided by DoD.

Inpatient Care

Data Sources

Direct Care

Clinical Data: Standard Inpatient Data Record (SIDR) for each hospital discharge. Maintained in the Corporate Executive Information System (CEIS).

Expenses: Estimated from the Medical Expense and Performance Reporting System—Central (MEPRS), part of the Defense Medical Information System or from the MEPRS Executive Query System (MEQS), depending on military department.

MCSC Provider Network

Expenses: Government paid expense on Health Care Summary Records (HCSRs) provided by the TRICARE Support Office (TSO) to the CEIS.

Methodology

Estimates of total inpatient expenses in each service area are determined by the following process:

1. Estimate inpatient expenses for care in Military Treatment Facilities (MTFs) for all Medicare eligibles in the service area.

a. From the CEIS, isolate the electronic summary discharge records for all non-active duty DoD beneficiaries age 65 and older living in the service area.

b. For each record isolated in step (1), estimate the cost of each discharge.

(1) Estimate the cost for each individual discharge using the Patient Level Costing Allocation (PLCA) methodology, as described in a separate document to be provided by DoD.

(2) Apply the IDA add-ons appropriate to the treating facility.

(a) Burden the cost of each record using IDA's percentages for DMSCC, Mgmt HQ, and Reference Labs, using the percentage developed for the Military Department of the hospital in which the care occurred (see Table 1). By agreement of the two administering Secretaries, burden the cost on each record with ⅓ of the IDA adjustment for Construction (see Table 1).

(b) Burden each record for Continuing Health Education (MEPRS Account FAL) and Patient Transportation/Movement (FEA/FEB/FEC) by allocating the actual expenditures in these accounts for treating facilities in the demonstration service area, and by the IDA percentage add-on (Table 1) for treating facilities outside the demonstration area. Since these accounts support all patient categories, as well as both inpatient and outpatient services, only a portion of their expenses will be allocated to the inpatient treatment of Medicare beneficiaries. The amount of each account allocated to Medicare inpatient expenses will be in the same proportion as MEPRS A Expenses (Inpatient Clinical Expenses) for the Medicare population are to the total of all MEPRS A and MEPRS B (Outpatient Clinical Expenses) in FY96. The amount allocated to Medicare inpatient expenses will be uniformly distributed across all Medicare inpatient records.

c. For records from teaching facilities, deflate the amount using HCFA's adjustment for Indirect Medical Education (IME) based on that facility's count of beds and of interns and residents.

d. Sum the estimated costs for the service area.

2. Estimate inpatient expenses for care provided by the MCSC provider networks.

a. Isolate all Health Care Summary Records for all non-active duty DoD beneficiaries, age 65 and older, living in the service area.

b. Total the government paid portion for all claims. [DHA1]

Outpatient Care

Data Sources

Direct Care

Clinical Data: Monthly outpatient visits by patient age and third-level MEPRS from CHCS, as well as outpatient visits reported by third-level in MEPRS-Central or MEQS.

Expenses: Dollars by third-level MEPRS from MEPRS-Central or MEQS.

MCSC Provider Network

Expenses: Government paid expense on Health Care Summary Records (HCSRs) provided by the TRICARE Support Office (TSO) to the CEIS.

Methodology

The following steps will be used to estimate outpatient expenses in each region:

1. Estimate the outpatient expenses for Medicare eligibles at all MTFs in the service area using the following steps.

a. Reconcile CHCS and MEPRS visit data.

(1) Annualize the CHCS data.

(2) Scale CHCS visit accounts to MEPRS or MEQs, if necessary.

b. From the rescaled CHCS visit data, determine the proportion of visits in each workcenter (third-level MEPRS) that are for non-active duty beneficiaries age 65 and older.

c. Apply the proportion of non-active duty beneficiaries age 65 and older to the MEPRS workcenter costs, excluding outpatient pharmacy expenses from the stepdown to ambulatory workcenters.

d. Sum the costs for the beneficiaries under consideration across all MEPRS workcenters to get total outpatient visit expenses at the facility level.

e. Apply the IDA add-ons for outpatient care.

(1) Inflate each record using IDA's percentages for DMSCC, Mgmt HQ, Reference Labs, and Clinical Investigation, using the percentage developed for the Military Department of the hospital in which the care occurred. By agreement of the two administering Secretaries, burden the cost on each record with ⅓ of the IDA adjustment for Construction (see Table 1).

(2) Burden the total expenses from d. by expenses in Continuing Health Education (MEPRS Account FAL) by allocating actual expenditures in the FAL account of the

[1] By contrast, a ''facility view'' of a demonstration area would accumulate the selected DHP expenses for beneficiaries treated by facilities operating within the service area, regardless of where such beneficiaries reside.

treating facility. The amount of each account allocated to Medicare outpatient expenses in the same proportion as MEPRS B Expenses (Outpatient Clinical Expenses) for the Medicare population are to the total of all MEPRS A (Inpatient Clinical Expenses) and MEPRS B in FY96. The amount allocated to Medicare outpatient expenses will be uniformly distributed across all Medicare outpatient records.

f. Sum the estimates for all MTFs within the service area.

2. Estimate ambulatory expenses for care provided by the MCSC provider networks.

a. Isolate all Health Care Summary Records for all non-active duty DoD beneficiaries, age 65 and older, living in the service area.

b. Total the government paid portion for all claims.

BILLING CODE 5000–04–P

Attachment D

Total Expenses

Sum the total Inpatient and Outpatient expenses from each site to produce the Level of Effort.

Table 1. Institute for Defense Analysis (IDA) MEPRS Adjustments.

	ARMY %	NAVY %	AIR FORCE %	AVERAGE %
Construction	4.30	4.30	4.30	4.30
DMSSC	1.29	1.29	1.29	1.29
Mgmt, HQ	0.68	1.11	0.85	0.88
FAA-Reference Labs	0.39	0.39	0.39	0.39
FAH-Clinical Investigation[2]	0.71	0.22	0.71	0.55
FAK-Student Expense[1]	4.65	2.75	2.18	3.19
FAL-Continuing Health Ed[2]	1.17	1.14	0.90	1.07
Outpatient Total	13.2	11.2	10.6	11.7
FEA-Patient Transportation[2]	3.74	2.14	2.18	2.69
Inpatient Total	16.9	13.3	12.8	14.3

1. year of training; 100% for interns and residents before year 2. Excluded from the Medicare Demonstration Project as GME expenses.
2. Includes MEPRS accounts FEB and FEC. For treating facilities within demonstration areas, actual expenditures in these MEPRS accounts are allocated between Inpatient and Outpatient care and between Medicare and all other beneficiaries. For treating facilities outside of demonstration areas, the IDA percentages will be used.

BILLING CODE 5000–04–C

Attachment E—Medicare Demonstration of Military Managed Care

Evaluation

Medicare Demonstration Sample Evaluation Questions—These questions are among those which may be addressed in either the GAO report required by the demonstration project's authorizing statute or in a separate evaluation conducted jointly by the Department of Defense and the Department of Health and Human Services.

• Can DoD and Medicare implement a cost-effective alternative for delivering accessible and quality care to dual-eligible beneficiaries?

The Medicare Demonstration should be able to answer the basic question of whether DoD and Medicare can meet its objective of implementing a cost-effective alternative for delivering care to dual-eligible beneficiaries through MHS. The answer to this question can be found by answering questions in four basic areas: enrollment demand, enrollee benefits, cost of the program, and impact on other DoD and Medicare beneficiaries for TRICARE Senior Prime and Medicare Partners. In each there should be a question about whether the demonstration succeeded and a set of analyses that examines the details within that area.

(1) Benefits for Enrollees

• Do dual-eligible beneficiaries benefit from Medicare reimbursement and enrollment in terms of quality, satisfaction, health status, access, or out of pocket costs?

• Will individual patients have better outcomes if treated as a DoD enrollee?

• Will beneficiaries as a whole evince better health and higher satisfaction when DoD enrollment is an option?

• Will beneficiaries have wider managed care choices?

• Will beneficiaries experience improved access to health care in general?

By definition, enrollees will have at least as generous a benefit as Medicare beneficiaries. The basic question will be: does DoD fulfill this promise and what if any additional benefits accrue to enrollees? However, the question will go much deeper than the structure of the prime benefit. Will beneficiaries as a whole experience better health, experience improved access, report higher satisfaction and encounter lower out of pocket costs when DoD enrollment is an option? In this case, we should examine the levels of satisfaction, health status, and access between those enrolled versus those not enrolled and between those in the demonstration areas versus those outside the demonstration areas.

As one measure of quality, DoD facilities are JCAHO accredited and the grid scores received will give us information on whether the MHS is maintaining its high standard of care. Data from the Health Care Survey of DoD Beneficiaries can be used to assess levels of satisfaction, access, and health status.

(2) Cost of Program

• Does Medicare reimbursement and enrollment occur without increasing the costs to either the Department of Health and Human Services and the Department of Defense?

• Will the Medicare Trust Funds experience losses or savings?

• Will the government as a whole experience losses or savings?

• What impact would Medicare reimbursement and enrollment have on the budgets of the Department of Health and Human Services and the Department of Defense?

Again, by definition, the demonstration must be budget neutral. However, the demonstration should provide an accounting that budget neutrality was achieved and that no cost were shifted from DoD to Medicare, i.e. that the Medicare trust funds did not experience any losses. This should include an analysis of the level of effort that DoD expends for the Medicare eligible as well as any reimbursements from Medicare that may be triggered during the demonstration. Analyses should also determine if DoD can in fact live within the Medicare payment, and whether its ability to live within it is determined by the level of the Medicare payment for different areas. In addition, the demonstration should highlight any cost shifting within the DoD to accommodate care for prime enrollees, both between regions and among medical programs. For Medicare Partners payments, analyses should estimate to what extent graduate medical education (GME), indirect medical education (IME), and disproportionate share hospital (DSH) amounts are included in those payments. It should also be able to forecast future budget impacts if the demonstration is continued or expanded.

Data for this section will be obtained in the same way that we estimated level of effort for reimbursement purposes. Sources include inpatient, ambulatory, and ancillary medical records and MEPRS accounting data. Because of the concern of shifting between regions and among medical programs, some level of aggregate data will need to be analyzed from outside the demonstration regions. Changes in Medicare expenditures to dual eligible beneficiaries could be accomplished with merged DoD and HCFA files similar to those being used for the initial level of effort analysis.

(3) Impact on Other DoD and Medicare Beneficiaries

• What impact (access, quality, cost) does Medicare reimbursement and enrollment have on medical care for DoD beneficiaries (active duty, active duty dependents, retirees and their dependents) other than the dual-eligible beneficiaries?

• Will the demonstration affect local health care providers or non-dual-eligible Medicare beneficiaries access to quality care?

The effect of the Medicare Demonstration may go beyond the effects on those who are Medicare eligible. Providing all inclusive care for Medicare eligibles may have effects on the access and priority of other beneficiaries in getting quality health care. The demonstration should provide answer to whether such a new benefit can be established without negatively impacting other classes of beneficiaries. In particular, the main focus of this question should be if access to non-Medicare eligible individuals has declined as a result of the demonstration. This should be examined for the different classes of beneficiaries and especially for active duty personnel and their dependents. The demonstration should also examine the effects of enrolling these individuals on CHAMPUS costs if they are displacing other beneficiaries in the direct care system.

Similar to (1) but for the remaining beneficiary categories, we propose using the Health Care Survey of DoD Beneficiaries to examine trends in access for non-Medicare eligible individuals.

(4) Enrollment Demand

• Is there sufficient demand to justify enrollment of and reimbursement for dual-eligible beneficiaries in TRICARE Senior Prime and/or Medicare Partners?

• What impact does Medicare reimbursement and enrollment have on the use of the Military Health System by dual-eligible beneficiaries?

• Will the Medicare Demonstration fare differently in different areas?

Up to this point, we do not know the degree to which Medicare eligibles are interested in participating in TRICARE Senior Prime and Medicare Partners. The demonstration should allow us to gauge the demand for such services. If few beneficiaries sign up, then one would question the need for such a program. Therefore, the basic question will be the number of Medicare Prime enrollees. We will also be interested on the total usage of the DoD system including space available use. Prior to the demonstration, beneficiaries fall into three categories: those who use the military system exclusively, those who use it for some of their health care, and those who rely exclusively on civilian care. With the demonstration, the first category will be split into two, those who enroll and those who use space available care for all their health care. The demonstration should seek the answer to who enrolls (e.g. are they prior exclusive users of DoD), what shifts between categories occurs, and does DoD continue to support at least as many beneficiaries as prior to the demonstration. It will also be of interest in projecting future enrollment to measure differences in enrollment between sites. Do those with greater military health care capability attract more enrollees than those with limited capability? Do civilian capabilities and alternatives influence the beneficiaries decision to enroll?

Data for this part of the evaluation will be from three sources. First, the enrollment files themselves will give us information on the number and kinds of beneficiaries who sign up for TRICARE Senior Prime. Second, the MHS User Survey can estimate the proportion of dual eligibles in each of the three categories. This data will also answer the questions as to what extent access of non-enrollees to space available care and pharmacy benefits are affected. Finally, the merging of utilization files from DoD and HCFA will give another look at what proportion of care is seen between the two systems.

DOD Performance Measures Attachment F—

Enrollment Systems

Performance: DoD provides appropriate enrollment information to HCFA; applications are handled according to HCFA requirements.

Criteria DoD can effectively interface with HCFA systems; applications are dated when received, handled first-come, first-served.

Grievance and Appeals

Performance: Process exists to handle beneficiary and provider complaints.

Criteria: DoD keeps an accurate log of complaints and addresses them promptly and appropriately.

Marketing

Performance: Process exists for assuring that beneficiaries are well-informed (beneficiaries are not misled, misrepresentations about the Medicare program are not made).

Criteria: DoD assures that beneficiaries are well informed, marketing materials are reviewed by HCFA before DoD distributes them.

Access/Capacity

Performance: DoD has adequate capacity and enrollees have adequate access to services.

Criteria: DoD demonstrates that TRICARE Senior Prime enrollees are getting the same priority and the same access as other military retirees who enroll in TRICARE Prime.

Paying Providers

Performance: Systems exist for processing payment to providers.

Criteria: DoD demonstrates ability to pay providers timely and accurately.

Reimbusement/Level of Effort

Performance: DoD has systems that receive and track payments from HCFA, and DoD can track actual costs for both space-available and enrollee care.

Criteria: DoD receives payment without problems; DoD demonstrates ability to track/allocate costs for space-available and enrollee care.

Encounter Data

Performance: DoD submits ''test'' data to fiscal intermediaries/carriers.

Criteria: DoD demonstrates successful data transmission.

[FR Doc. 98–19041 Filed 7–16–98; 8:45 am]

BILLING CODE 5000–04–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

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

DATES: Interested persons are invited to submit comments on or before September 15, 1998.

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

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

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

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

Dated: July 13, 1998.

Hazel Fiers,

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

Office of Educational Research and Improvement

Type of Review: New.

Title: Third International Mathematics and Science Study Video—Repeat (TIMSS–R).

Frequency: On Occasion.

Affected Public: Individuals or households; not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 5,600.

Burden Hours: 567.

Abstract: Videotape study of 8th grade math and science classrooms in the United States, the Czech Republic, France, Japan, the Netherlands, and One Asian Nation during the 1998–1999 school year. Designed and conducted by the U.S., this study supplements the Main TIMSS–R academic assessment data collection in which 45 to 50 countries are expected to participate. This study is based on and extends the work of the previous TIMSS video study. That study included only mathematics and compared the U.S. data with two other countries—Japan and Germany. This study will include science in addition to mathematics lessons, will be conducted in five high-achieving nations, and will collect and produce video tapes that will be useful for improving teaching practices.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: The Blue Ribbon Schools Program.

Frequency: One time.

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

Reporting and Recordkeeping Hour Burden:

Responses: 515.

Burden Hours: 25,750.

Abstract: The Blue Ribbon Schools award is a national school improvement strategy with a threefold purpose: (1) to identify and give public recognition to outstanding public and private schools across the nation; (2) to make available a comprehensive framework of key criteria for school effectiveness that can serve as a basis for participatory self-assessment and planning in schools; and (3) to facilitate communication and sharing of best practices within and among schools based on a common

understanding of criteria related to success. The information collected will be used to determine by peer review which schools receive the award and information on their exemplary practices and policies will be made available to other schools.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.

Title: Annual Program Cost Report.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 82.

Burden Hours: 385.

Abstract: Collected data submitted on the Annual Vocational Rehabilitation Program/Cost Report (RSA–2) by State vocational agencies for each fiscal year is used by the Rehabilitation Services Administration (RSA) to administer and manage the Title I Program, to analyze expenditures, evaluate program accomplishments, and to examine data for indication of problem areas.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Eisenhower National Clearinghouse for Mathematics and Science Education, Evaluation.

Frequency: On occasion.

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

Reporting and Recordkeeping Hour Burden:

Responses: 80,125.

Burden Hours: 3,159.

Abstract: This submission contains a suite of nine instruments to be used in general data collection for the Eisenhower National Clearinghouse (ENC). All responses are voluntary. Subjects will be obtained as a sample of convenience at ENC workshops, demonstrations and presentations, and from recipients of ENC publications and products. Instruments are designed to provide general information for planning and evaluation purposes.

[FR Doc. 98–19068 Filed 7–16–98; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection and Dissemination Activities: Comment Request

AGENCY: Energy Information Administration, DOE.

ACTION: Agency electric power information collection and dissemination activities: Proposed confidentiality comment request.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments concerning the proposed revision to the EIA procedure of confidentiality treatment given to electric power data collected and disseminated by the EIA through a series of primarily mandatory surveys (Form EIA–411 is voluntary). This notice lists the electric power data elements the EIA considers could cause substantial competitive harm if made available to the public and EIA is proposing that these elements will be considered confidential if the provider documents substantial harm due to unrestricted disclosure.

DATES: Written comments must be submitted by August 31, 1998. The urgency to review and implement this policy requires close adherence to the scheduled comment period. If unusual circumstances arise during the comment period which could cause a delay in meeting the scheduled response date, please notify the contact person listed below at once. Effort will be made to accommodate all interested responders to this notice.

ADDRESSES: Send comments to John G. Colligan, EI–53; Energy Information Administration, U.S. Department of Energy, 1000 Independence Avenue, S.W.; Washington, D.C. 20585–0650; (202) 426–1174; e-mail jcolliga@eia.doe.gov; and fax (202) 426–1311.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the electric power forms and instructions should be directed to John Colligan at the address listed above. Please note, the EIA is not seeking comments on the survey forms per se, but rather on the level of confidentiality of specific data elements. A separate notice regarding forms design is being published and distributed.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (FEAA) (Pub. L. 93–275) and the Department of Energy Organization Act (Pub. L. 95–91), the Energy Information Administration (EIA) is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The EIA, as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13)), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to prepare data requests in the desired format, minimize reporting burden, develop clearly understandable reporting forms, and assess the impact of collection requirements on respondents. Also, EIA will later seek approval by the Office of Management and Budget (OMB) for the collections under Section 3507(h) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, Title 44, U.S.C. Chapter 35).

The EIA conducts surveys to collect electric power data from electric utilities, electric power marketers, nonutility electric power producers (cogenerators, small power producers, and other nonutility electric power generators), and the North American Electric Reliability Council regions. The electric power data collected include but are not limited to: ownership; accounting/financial; generation; type and character of fuels consumed; capacity; heat rates; heat rate components; demand; purchases; sales; peak loads; imports/exports; revenues; plants; equipment; distribution systems; reliability; load management; and environmental data. EIA also collects projections of load, capacity, and other related information.

The EIA surveys used to collect this data and other information are:

EIA–411, ''Coordinated Bulk Power Supply Program;''

EIA–412, ''Annual Report of Public Electric Utilities;''

EIA–417R, ''Electric Power Systems Emergency Report;''
EIA–759, ''Monthly Power Plant Report;''
EIA–767, ''Steam-Electric Plant Operation and Design Report;''
EIA–826, ''Monthly Electric Utility Sales and Revenue Report with State Distributions;''
EIA–860, ''Annual Electric Generator Report;''
EIA–861, ''Annual Electric Utility Report;''
EIA–867, ''Annual Nonutility Power Producer Report;'' and
EIA–900, ''Monthly Nonutility Sales for Resale Report.''

(The surveys currently in use to collect electric power data are subject to change reflecting the transformation of the electric power industry. The EIA is also publishing a notice in the **Federal Register**, at this time outlining proposed individual forms changes.)

II. Current Actions

With the restructuring of the generation segment of the electric power industry, the question of confidential treatment of the electric power data collected and disseminated by the EIA has become preeminent. Under existing EIA procedure, in accordance with the Freedom of Information Act (FOIA), all electric utility data, except heat rate, are available to the public. Most electric power data collected from the nonutility industry are treated as commercially sensitive and not releasable in disaggregated form. The EIA has followed this procedure since inception of the nonutility form(s) based on the nature of that market.

With the implementation of the Federal Energy Regulatory Commission (FERC) Orders 888 and 889, which facilitated wholesale electricity generation competition, and the initiation of retail competition in some states, the EIA is addressing the concern of data confidentiality, through a series of notices to the public which address the need for a change to the confidentiality of submitted data survey forms. This will result in an amended procedure that will both balance the public's right-to-know, and the proprietary right of the electric power generators to conduct business.

The EIA's initial action was a request for comment(s) from interested parties and those who might be affected by changes in the EIA confidentiality procedure. The call for comments was widely publicized through a **Federal Register** notice (FRn), and announcements on the Internet. (Refer to **Federal Register**: January 13, 1998 (Volume 63, Number 8) [pp 1960–1962]. The EIA extended the comment period of the notice beyond the customary 60 days, to accommodate all potential responders. EIA received 116 responses, (Appendix A) several from organizations representing more than a single entity. Many of the comments discussed the legal requirements related to confidentiality of data submitted to the EIA. The respondents presented cogent arguments on all sides of the issue which is the foundation of the EIA procedure being presented here.

In developing a policy of confidential treatment of electric power data collected by the EIA that is fair and equitable, the EIA weighed the concerns of the industry (as reported in their comments) with the legal implications of any action(s) taken and the laws governing the EIA survey collection series. The laws and regulations considered are:

a—Trade Secrets Act, (18 U.S.C. 1905)
b—Freedom of Information Act (FOIA), (5 U.S.C. 552)
c—Department of Energy, Freedom of Information Act (FOIA) Regulations, (10 C.F.R. 1004)
d—Clean Air Act (as it applies to emissions data), (42 U.S.C. 85)
e—Paperwork Reduction Act, (44 U.S.C. 35)

a—Trade Secrets Act

A trade secret is defined in narrow terms: as a secret commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. The collection and dissemination, by the EIA of electric power data does not include trade secret information or data. By definition the Trade Secrets Act is not pertinent to the issue of confidentiality of the EIA electric power data collection series.

b—Freedom of Information Act (FOIA)

The concept of FOIA is an open policy favoring disclosure. There is a presumption that disclosure is appropriate, with some limited exemptions. Exemption 4 of FOIA covers confidential commercial or financial information. However, exemptions to FOIA are narrowly construed. The test, under exemption 4 of FOIA, of whether to disclose or to withhold data at the company/plant level is a two prong examination depending on whether the submission is voluntary or required. FOIA does not contain specific provisions on information sharing.

Where information is submitted voluntarily, disclosure under FOIA is appropriate only if the data provider and/or industry organizations (in which the data provider holds membership) customarily make the data available to the public. The fact that a custodian of the data makes it available to the public is not considered voluntary submission by the submitter.

All EIA electric power data collections (except Form EIA–411) are mandatory surveys. Where information is required to be submitted, the test for FOIA disclosure is whether disclosure would cause substantial competitive harm. The question of whether substantial competitive harm will in fact occur (by release of data to the public) is a highly fact-specific one. The harm must be substantial, a mere negative effect alone does not meet the standard of substantial harm. Actual competition is a prerequisite if seeking exception from disclosure under FOIA. The entity must be operating in a competitive market, not a non-competitive market. Blanket allegations of harm will not suffice as proof of substantial harm. The burden is on the entity seeking confidential treatment of data. When granting an exemption under FOIA, the question of balance between public interest and the rights of the submitter are always at issue.

c—Department of Energy (DOE), FOIA Regulations

The DOE complies with the FOIA regulations both in letter and in spirit. The fact that the EIA has considered specific data elements nonconfidential or confidential in the past does not preclude a reevaluation of its position on confidentiality of individual data elements at any time. The electric power industry changes as do the circumstances of data reporting. The change in circumstances could affect disclosure of data collected in prior years by the EIA. For example, if data are relatively unchanged but the disclosure rule is now different, the new rule might prevail for disclosure of all such data collected in prior years. The final EIA procedure will clarify this point. If underlying data are confidential it is usually acceptable to disclose the data at an aggregated level without revealing the data submitter. DOE also complies with the Paperwork Reduction Act of 1995 which provides that a Federal agency may make confidential information available to another Federal agency if the disclosure is not inconsistent with applicable law. The EIA may make confidential information available to another Federal Agency if it will be used for statistical purposes only. In accordance with section 12(f) of the FEAA, the

Comptroller General or the Secretary shall disclose information in a manner designed to protect its confidentiality to (1) other Federal government departments, agencies, and officials for official use upon request; (2) committees of Congress upon request; and (3) a court in any judicial proceeding under court order.

d—Clean Air Act

The Clean Air Act prohibits confidential treatment of emissions data. The Environmental Protection Agency's (EPA) FOIA implementing regulations has determined that emissions data are defined broadly and includes ''information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source * * *''. (EPA is one of the sponsors of Form EIA–767.)

Proposed Procedure

The EIA is proposing an update to its procedure on the confidential treatment of electric power data collected through the survey series listed above. The proposed changes are based on the review of the comments received from all sectors of the industry, and consideration of the laws and regulations discussed above.

It is the intent of the EIA to establish a procedure of equal public disclosure treatment for all market participants. The data elements designated in this document (Table 1) have a potential to be harmful to the submitter, if released without restriction. Such harm, if it exists, could qualify the individual submitter's data for exemption from unrestricted release under the provision(s) of FOIA. Circumstances vary from reporting entity to reporting entity. It is the responsibility of the respondent(s) seeking protection under FOIA to declare the fact-specific occasions that will cause damages, and explain how their company is directly affected. The burden is on the respondent to authenticate and document the likelihood of substantial harm, and the need for nondisclosure of specific data. To show substantial competitive harm, the respondent must document the existence of actual competition, how a competitor would use the data to gain a substantial competitive advantage, and that the data are not available from another source. Even if the respondent appears to meet the burden of proof, the EIA is required to balance the harm to the respondent against the public interest severed by disclosure.

It should be understood that the EIA's identification of these elements is based on the comments received from the January 1998 solicitation and a thorough review of the laws and regulations. Each respondent seeking nondisclosure protection, for individually-identifiable data, should establish that prerogative when submitting that entity's data to the EIA on the applicable survey(s).

All other data collected by the EIA on the surveys listed in Section I, Background, will be treated as nonconfidential. Listed in Appendix B are most of the major data elements (by Form) that will not be treated as confidential.

TABLE 1.—CONFIDENTIAL DATA ELEMENTS

Data elements	Forms affected
Future—generating capacity:	EIA–411 generator(s) planning data for: (a) existing (changes to); (b) retirement date(s) (c) new generators (all information)
1—retirement dates	EIA–767 planning data for: (a) new plants/equip.; (b) equipment updates; (c) retirement date(s)
2—changes to existing units	EIA–860 planning data for: (a) generator updates; (b) retirement date(s); (c) new generator(s)
3—planned generating unit data	EIA–867 planning data for equipment
Heat rates:	EIA–411 (a) heat rate data EIA–767 (a) boiler efficiency EIA–860 (a) heat rate data
1—Sales for resale	EIA–412 name(s), quantities, demand charges, energy/other charges, revenue/settlements
2—Contracts	EIA–867 names, maximum contract amount, amount delivered
Wholesale purchases/contracts with sellers	EIA–412 name(s), quantities, demand charges, purchased/exchanged, energy/other charges, total costs EIA–867 name(s), maximum contract amount, amount delivered
Fuel inventory—stocks	EIA–759
Financial data—environmental equipment	EIA–767
Sales end user(s) name(s)	EIA–867 name(s), maximum contract, amount delivered

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in Section II, Current Actions. We are seeking comments on the issue of confidentiality only at this time. General comments on the forms themselves will be solicited under another FRn soon to be published. The EIA is taking this approach in order not to confuse form(s) design and survey coverage(s) with the issue of confidentiality of the electric power data. The following guidelines are provided to assist in the preparation of responses.

General Issues

The general issue of this notice is to advise and seek comments on the EIA's proposed revised procedure of confidentiality treatment of data elements collected on its several electric power survey form(s), from all interested parties. Table 1 lists the electric power data elements the EIA considers could cause substantial competitive harm if made available to the public. The EIA is proposing that these elements will be considered confidential if the provider documents substantial harm due to unrestricted disclosure. Please comment on this proposal.

As a Potential Respondent

While the general rule under FOIA is full disclosure there are limited

exemptions. The question of whether data collected by the EIA's electric power survey(s) series will qualify for an exemption is not exact. The critical test is: will the release of the data element (at the plant identifiable unit level) cause or is likely to cause substantial competitive harm? The presumption of the FOIA favors disclosure, placing the burden on the data provider to document the likelihood of such harm.

As a potential respondent to an EIA electric power survey, please discuss what data elements collected on EIA's electric power surveys would cause you substantial competitive harm if your individually-identifiable data were released. Specifically, you should address the following: (1) is your information available from other public sources; and (2) how would release of your data cause you substantial competitive harm. Your response must be specific; broad statements not addressing specific data elements are not useful in deciding on what data elements, if any, should be considered as confidential.

As a Potential User

A. As a potential user of data collected in EIA's electric power surveys, please discuss what data you need in company-identifiable form and why aggregate data where individual confidentiality is maintained would not be adequate for your needs. Additionally, please document the harm and the extent of loss you would endure by not having individually-identifiable specific data.

As new data needs on electric power are identified in the future and are considered for inclusion in EIA's surveys, the confidentiality treatment of any new data element(s) will be subject to the same procedure and considerations discussed above. Before new element(s) are included in surveys, EIA will request comments through its presurvey consultation program and will seek OMB approval.

Comments received in response to this **Federal Register** notice may be included in materials submitted to OMB and will be available to the public.

Statutory Authority: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C. July 14, 1998.

Jay E. Hakes,

Administrator, Energy Information Administration.

Appendix A

LIST OF COMPANIES RESPONDING TO FEDERAL REGISTER NOTICE OF JANUARY 13, 1998

ID	Company	Type
1	Alaska Electric Light & Power Co	Utility.
2	Allegheny Power	Utility.
3	American Public Power Association	Association.
4	American Corporate Resources, Inc	Consultant.
5	Arizona Corporation Commission	State/Regulator.
6	Association of Electric Cooperatives	Association.
7	Baltimore Gas & Electric Co	Utility.
8	Bernadette K. Geyer	Private Citizen.
9	Bonneville Power Administration	Federal Gov.
10	Brickfield/Burchette-For 3 Texas Coop's	Electric Coop.
11	California Energy Commission	State/Regulator.
12	Carolina Power & Light Co	Utility.
13	Center for Clean Air Policy	Environmental.
14	Central & South West Services, Inc	Utility.
15	Coalition For Local Power	Citizen Group.
16	Colorado/Dept. Public Health/Environment	State/Regulator.
17	Colorado/Dept. Regulatory Agencies	State/Regulator.
18	Commonwealth Edison Co—Environmental	Utility.
19	Commonwealth Edison Co—Attorney For	Utility.
20	Commonwealth Edison Co—Law Dept	Utility.
21	Conservation Consultants, Inc	Citizen Group.
22	CONSOL Inc	Energy Co.
23	Consumers Energy	Utility.
24	Coordinated Energy Ltd	Consultant.
25	Detroit Edison	Utility.
26	Duke Energy Corporation	Utility.
27	Edison Electric Institute	Association.
28	Electric Power Group	Consultant.
29	Electric Power Supply Association	Association.
30	Energy Market & Policy Analysis, Inc	Consultant.
31	Energy	Utility.
32	First Energy	Utility.
33	Friends Of The Earth	Environmental.
34	Groundwork	Environmental.
35	Hawaiian Electric Co. Inc	Utility.
36	Illinois Power	Utility.
37	Indiana Dept. Commerce	State/Regulator.
38	Iowa Dept. Natural Resources	State/Regulator.
39	J.D. McKenzie	Consultant.
40	James Kotcon	Consultant.
41	Kansas City Power & Light Co	Utility.
42	Katherine M. Phillips	Private Citizen.
43	Kenneth D. Hammett	Private Citizen.
44	Komanoff Energy Associates	Consultants.
45	Laclede Gas Co	Energy Co.
46	Land & Water Fund	Environmental.
47	M. Cubed	Consultant.

LIST OF COMPANIES RESPONDING TO FEDERAL REGISTER NOTICE OF JANUARY 13, 1998—Continued

ID	Company	Type
48	Maryland Energy Administration	State/Regulator.
49	MDU Resources Group	Utility.
50	Michigan State—College of Business	College/Univ.
51	Michigan Municipal Electric Association	Association.
52	Michigan—Dept Consumer & Industry Services	State/Regulator.
53	Mid Atlantic Area Council	Association.
54	Mid American	Utility.
55	Mike Turcotte	Private Citizen.
56	Missouri—Dept. of Natural Resources	State/Regulator.
57	Missouri—Division of Energy	State/Regulator.
58	MSB Energy Associates, Inc	Consultant.
59	N. Carolina Dept. Environment/Natural Resources	State/Regulator.
60	National Mining Association	Association.
61	National Association of State Officials	Association.
62	National Resources Defense Council	Association.
63	National Rural Electric Cooperative Association	Electric Coop.
64	National Assoc. Regulatory Utility Commissioners	Association.
65	National Assoc. State Utility Consumer Advocates	Association.
66	Native Forest Network	Citizen Group.
67	New York Energy Research/Development Authority	State/Regulator.
68	New England Conference PUC Commissioners, Inc	Association.
69	New Century Energies	Utility.
70	New Jersey Dept. Environmental Protection	State/Regulator.
71	North American Electric Reliability Council	Association.
72	Northeast States Coordinated Air Use Management	Association.
73	Nuclear Energy Institute	Association.
74	Pacific Gas & Electric Co	Utility.
75	Paine Webber	Financial.
76	PECO Energy Co	Utility.
77	Pete Salinas, Jr	Private Citizen.
78	Philadelphia Public Health/Services Air/Man	State/Regulator.
79	Potomac Electric Power Co	Utility
80	Public Citizen	Citizen Group
81	Public Service Company of New Mexico	Utility.
82	Public Citizens Critical Mass Energy Project—1	Citizen Group.
83	Public Citizens Critical Mass Energy Project—2	Citizen Group.
84	Public Citizens Critical Mass Energy Project—3	Citizen Group.
85	PUC of Ohio	State/Regulator.
86	Puget Sound Energy, Inc.	Utility.
87	Resource Data International	Consultant.
88	Resources for the Future	Consultant.
89	Right-to-Know Energy Information	Citizen Group.
90	Sigcorp Inc	Utility.
91	Southern California Edison	Utility.
92	Southern Company	Utility.
93	Southern Environmental Law Center	Environmental.
94	Steve Osterday	Private Citizen.
95	Tampa Electric Co	Utility.
96	Terrence Kurtz	Private Citizen.
97	Texas Utilities Electric Co	Utility.
98	Tucson Electric Power Co	Utility.
99	U. of Delaware Energy & Environmental Policy	College/Univ.
100	Union of Concerned Scientists	Environmental.
101	University of Wisconsin-Madison	College/Univ.
102	U.S. Senate James M. Jeffords (Vermont)	Federal Gov.
103	U.S. Environmental Protection Agency	Federal Gov.
104	U.S. Dept Comm. Bureau Economic Analysis	Federal Gov.
105	U.S. Dept. of Agriculture	Federal Gov.
106	Utility Power Group	Consultant.
107	Vanston Shaw	Private Citizen.
108	Virginia Tech Center/Coal & Energy Research	College/Univ.
109	Virginia Power	Utility.
110	Washington-Dept./Community/Trade/Econ-Devel.	State/Regulator.
111	Washington-Utilities/Transport Commission	State/Regulator.
112	Western Resources	Utility.
113	William Kreuter	Consultant.
114	Wisconsin—Dept. of Justice	State/Regulator.
115	Wisconsin Public Service Corporation	Utility.
116	Working Assets	Consultant.

Appendix B

LIST OF DATA ELEMENTS THAT WILL NOT BE HELD CONFIDENTIAL

Data elements	Forms affected
Existing generating capacity	EIA–411 all data not listed as confidential on existing generating units such as identifiers, type, capacity, fuel, commercial operation date
	EIA–767 all data not listed as confidential on steam-electric plant configuration such as existing boiler design parameters (excluding heat rates & retirement date), existing plant configuration, existing generator information
	EIA–860 all data not listed as confidential on existing generating units such as identifiers, type, capacity, fuel, commercial operation date
	EIA–867 existing facility QF or EWG status, nameplate rating, existing electric generator identification/nameplate rating/ generating unit type/prime mover type/energy source
Net or Gross Generation	EIA–412 net generation by steam, nuclear, hydro, other
	EIA–759 net generation by plant & energy source
	EIA–767 net monthly generation by generator
	EIA–867 gross generation by generator
	EIA–900 gross generation by facility
Fuel Consumption	EIA–759 fuel consumption
	EIA–767 fuel consumed by boiler (quantity and quality)
	EIA–867 quantity and quality of fuel consumed
Environmental Characteristics	EIA–767 byproduct distribution for the year, air emission standards by boiler, existing cooling system/particulate collector/flue gas desulfurization/stack and flue design parameters and information
	EIA–867 facility environmental equipment information
Financial Data	EIA–412 public electric utility financial data not listed as confidential: balance sheet, income statement, cash flows, cost of plant in service, taxes, O&M expenses, employee statistics
Emergency Reports	EIA–417R
Retail Sales, Revenue, & Number of Consumers	EIA–826 monthly sales, revenue, number of consumers by customer class by State
	EIA–861 annual sales, revenue, number of consumers by customer class by State, electric operating revenues
	EIA–867 sales to end users
	EIA–900 monthly sales to end users
Sources & Disposition of Energy	EIA–861
	EIA–867
	EIA–900 monthly sales for resale
Demand Side Management Information	EIA–861
Distribution System Information	EIA–861

[FR Doc. 98–19126 Filed 7–16–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Financial Assistance Program Notice 98–18: Outstanding Junior Investigator Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Division of High Energy Physics of the Office of Energy Research (OER), U.S. Department of Energy, hereby announces its interest in receiving grant applications for support under its Outstanding Junior Investigator (OJI) Program. Applications should be from tenure-track faculty investigators who are currently involved in experimental or theoretical high energy physics or accelerator physics research, and should be submitted through a U.S. academic institution. The purpose of this program is to support the development of the individual research programs of outstanding scientists early in their careers. Awards made under this program will help to maintain the vitality of university research and assure continued excellence in the teaching of physics.

DATES: To permit timely consideration for award in fiscal year 1999, formal applications submitted in response to this notice should be received before November 4, 1998.

ADDRESSES: Completed formal applications referencing Program Notice 98–18 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 98–18. The above address must also be used when submitting applications by U.S. Postal Service Express, and commercial mail delivery service or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey Mandula, Division of High Energy Physics, ER–221 (GTN), U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–4829. E-Mail: mandula@hep2.er.doe.gov

SUPPLEMENTARY INFORMATION: The Outstanding Junior Investigator program was started in 1978 by the Department of Energy's Office of Energy Research. A principal goal of this program is to identify exceptionally talented new high energy physicists early in their careers and assist and facilitate the development of their research programs. Eligibility for awards under this notice is therefore restricted to non-tenured investigators who are conducting experimental or theoretical high energy physics or accelerator physics research. Since its debut, the program has

initiated support for between five and ten new Outstanding Junior Investigators each year. The program has been very successful and contributes importantly to the vigor of the U.S. High Energy Physics program. Applicants should request support under this notice for normal research project costs as required to conduct their proposed research activities. The full range of activities currently supported by the Division of High Energy Physics is eligible for support under this program.

The DOE expects to make five to ten grant awards in fiscal year 1999 to meet the objectives of this program. It is anticipated that approximately $400,000 will be available in fiscal year 1999, subject to availability of appropriated funds. In the past, awards have averaged $50,000 per year, with the number of awards determined by the number of excellent applications and the total funds available for this program. Multiple year funding of grant awards is expected, with funding provided on an annual basis subject to availability of funds. Renewal beyond the initial project period is normal so long as the recipient's tenure status is unchanged.

Applications will be subjected to a formal competitive merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR Part 605:

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of applicant's personnel and adequacy of proposed resources; and
4. Reasonableness and appropriateness of the proposed budget.

General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Energy Research Financial Assistance Program and 10 CFR Part 605. The application guide is available on the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html

(The Catalog Of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605)

Issued in Washington, DC, on July 2, 1998.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 98–19117 Filed 7–16–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3052–000]

PowerSource Corp.; Notice of Issuance of Order

July 13, 1998.

PowerSource Corp. (PowerSource) submitted for filing a rate schedule under which PowerSource will engage in wholesale electric power and energy transactions as a marketer. PowerSource also requested waiver of various Commission regulations. In particular, PowerSource requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by PowerSource.

On July 10, 1998, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by PowerSource 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).

Absent a request for hearing within this period, PowerSource is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of PowerSource's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 10, 1998. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19062 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3108–000]

Rocky Mountain Natural Gas & Electric L.L.C.; Notice of Issuance of Order

July 13, 1998.

Rocky Mountain Natural Gas & Electric L.L.C. (Rocky Mountain) filed a rate schedule under which Rocky Mountain will engage in wholesale electric power and energy transaction as a marketer. Rocky Mountain also requested waiver of various Commission regulations. In particular, Rocky Mountain requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Rocky Mountain.

On July 10, 1998, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Rocky Mountain 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).

Absent a request for hearing within this period, Rocky Mountain is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Rocky Mountain's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 10, 1998.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19063 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–3–17–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 13, 1998.

Take notice that on July 1, 1998, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets listed on Appendix A to the filing, to become effective August 1, 1998.

Texas Eastern states that these revised tariff sheets are filed pursuant to Section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern states that Section 15.1 provides that Texas Eastern shall file to be effective each August 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime movers.

Texas Eastern states that these revised tariff sheets are being filed to reflect changes in Texas Eastern's projected costs for the use of electric power for the twelve month period beginning August 1, 1998. Texas Eastern states that the rate changes proposed to the primary firm capacity reservation charges, usage rates and 100% load factor average costs for full Access Area Boundary service from the Access Area Zone, East Louisiana, to the three market area zones are as follows:

Zone	Reservation	Usage	100% LF
Market 1	$(0.020)/dth	$(.0002)/dth	$(.0009)/dth.
Market 2	$(0.064)/dth	$(.0006)/dth	$(.0027)/dth.
Market 3	$(0.093)/dth	$(.0008)/dth	$(.0039)/dth.

Texas Eastern states that copies of its filing have been served on all affected customers and interested state commissions.

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

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19089 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1849–001, et al.]

California Independent System Operator Corporation, et al., Electric Rate and Corporate Regulation Filings

July 9, 1998.

Take notice that the following filings have been made with the Commission:

1. California Independent System Operator Corporation

[Docket No. ER98–1849–001]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between Northern California Power Agency and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. California Independent System Operator Corporation

[Docket No. ER98–1891–001]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 1, to the Meter Service Agreement for Scheduling Coordinators between the City of Riverside and the ISO for acceptance by the Commission. The ISO states that Amendment No. 1, modifies the Agreement, as directed by the Commission, to comply with the Commission's order issued December 17, 1997 in Pacific Gas and Electric Co., 81 FERC ¶ 61,320 (1997).

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Montana Power Company

[Docket Nos. ER98–2382–001, OA97–679–001 and OA96–199–005]

Take notice that on June 26, 1998, Montana Power Company tendered for filing its compliance filings in the above-referenced dockets.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Alden Engineering Company

[Docket No. ER98–2622–000]

Take notice that on June 16, 1998, Aladen Engineering Company tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Northeast Electricity Inc.

[Docket No. ER98–3048–000]

Take notice that on July 6, 1998, Northeast Electricity Inc. (NEI), petitioned the Commission for acceptance of NEI 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.

NEI intends to engage in wholesale electric power and energy purchases and sales as a marketer. NEI is not in the business of generating or transmitting electric power. NEI is a wholly owned and privately held company, with no affiliates.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3605–000]

Take notice that on July 2, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing Supplement to its Rate Schedule FERC No. 117, an agreement to provide transmission and interconnection service to Long Island Lighting Company (LILCO). The Supplement provides for a decrease in annual revenues under the Rate Schedule. Con Edison has requested that this decrease take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Oklahoma Gas and Electric Company

[Docket No. ER98–3607–000]

Take notice that on July 6, 1998, Oklahoma Gas and Electric Company (OG&E), tendered for filing Service Agreements for parties to take service under its Short-Term Power Sales Agreement.

Copies of this filing have been served on each of the affected parties, the Oklahoma Corporation Commission and the Arkansas Public Service Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Consumers Energy Company

[Docket No. ER98–3608–000]

Take notice that on July 6, 1998, Consumers Energy Company (Consumers), tendered for filing Amendment No. 1, to its Service Agreement for Network Integration Transmission Service with the City of Bay City (Bay City).

Copies of the filing were served upon the Michigan Public Service Commission and Bay City.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. California Independent System Operator Corporation

[Docket No. ER98–3609–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Simpson Paper Company, Humboldt Mill (Simpson Paper), for acceptance by the Commission.

The ISO states that this filing has been served on Simpson Paper and the California Public Utilities Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Northern States Power Company (Minnesota Company), Northern States Power Company (Wisconsin Company)

[Docket No. ER98–3610–000]

Take notice that on July 6, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing an Electric Service Agreement between NSP and ConAgra Energy Services, Inc., (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on June 8, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER98–3611–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Simpson Redwood Company d/b/a Simpson Timber Company (Simpson Timber) for acceptance by the Commission.

The ISO states that this filing has been served on Simpson Timber and the California Public Utilities Commission.

The ISO is requesting a waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of June 23, 1998.

Copies of this filing have been served on Simpson Timber and the California Public Utilities Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER98–3612–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Martinez Refining Company—Division of Equilon Enterprises, L.L.C. (Martinez Refining), for acceptance by the Commission.

The ISO states that this filing has been served on Martinez Refining and the California Public Utilities Commission.

The ISO is requesting a waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of June 23, 1998.

Copies of this filing have been served on Martinez Refining and the California Public Utilities Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER98–3613–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between the ISO and Martinez Refining Company—Division of Equilon Enterprises LLC (Martinez Refining) for acceptance by the Commission.

The ISO states that this filing has been served on Martinez Refining and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the

Participating Generator Agreement to be made effective as of June 23, 1998.

Copies of this filing have been served on Martinez Refining and the California Public Utilities Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Consumers Energy Company

[Docket No. ER98–3614–000]

Take notice that on July 6, 1998, Consumers Energy Company (CECo), tendered for filing an executed Service Agreement for Network Integration Transmission Service pursuant to Consumers' Open Access Transmission Service Tariff and a Network Operating Agreement. Both were with the Brunswick Bowling & Billiards Corporation and have effective dates of June 30, 1998.

Copies of this filing were served upon the Michigan Public Service Commission and the customer.

CECo requests an effective date of June 23, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Louisville Gas And Electric Company

[Docket No. ER98–3616–000]

Take notice that on July 6, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Service Agreement between LG&E and Minnesota Power & Light Company under LG&E's Rate Schedule GSS.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Western Resources, Inc.

[Docket No. ER98–3617–000]

Take notice that on July 6, 1998, Western Resources, Inc., (Western Resources), tendered for filing a Long-Term Firm Transmission Service Agreement between Western Resources and Public Service Company of Oklahoma. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission.

Western Resources requests waiver of the Commission's notice requirements to permit an effective date of June 1, 2002.

Copies of the filing were served upon Public Service Company of Oklahoma and the Kansas Corporation Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Tucson Electric Power Company

[Docket No. ER98–3618–000]

Take notice that on July 6, 1998, Tucson Electric Power Company (TEP), tendered for filing an unexecuted Short-Term Umbrella Service Agreement for sales under TEP's Market-Based Power Sales Tariff, FERC Electric Tariff, Original Volume No. 3. The Umbrella Service Agreement for Short-Term Transactions with Participants in the California PX dated June 25, 1998. Service under this service agreement commenced April 1, 1998.

TEP requests waiver of the 60-day notice requirement to allow the service agreement to become effective as of April 1, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Niagara Mohawk Power Corporation

[Docket No. ER98–3619–000]

Take notice that on July 6, 1998, Niagara Mohawk Power Corporation (ANMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and The Cincinnati Gas and Electric Company, PSI Energy, Inc., Indiana Corporation (collectively Cinergy Operating Companies) and Cinergy Services, Inc., as agent for and on behalf of the Cinergy Operating Companies. This Transmission Service Agreement specifies that Cinergy Services, Inc., has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Cinergy Services, Inc., to enter into separately scheduled transactions under which NMPC will provide transmission service for Cinergy Services, Inc., as the parties may mutually agree.

NMPC requests an effective date of June 29, 1998. 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 Services, Inc.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas And Electric Company

[Docket No. ER98–3620–000]

Take notice that on July 6, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Service Agreement between LG&E and Alabama Electric Cooperative, Inc., under LG&E's Rate Schedule GSS.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Kentucky Utilities Company

[Docket No. ER98–3621–000]

Take notice that on July 6, 1998, Kentucky Utilities Company (KU), tendered for filing an executed Power Services Agreement between KU and ConAgra Energy Services, Inc., under KU's Power Services Tariff, Rate PS.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Cinergy Services, Inc.

[Docket No. ER98–3622–000]

Take notice that on July 6, 1998, 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 Electric Clearinghouse, Inc., (EC).

Cinergy and EC are requesting an effective date of June 15, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Florida Power & Light Company

[Docket No. ER98–3623–000]

Take notice that on July 6, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Merchant Energy Group of the Americas, Inc., for Short-Term Firm and Non-Firm Transmission Service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on July 1, 1998.

FPL states that a copy of this filing is being sent to Merchant Energy Group of the Americas, Inc., and the Florida Public Service Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Florida Power & Light Company

[Docket No. ER98–3624–000]

Take notice that on July 6, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with The Energy Authority, Inc., for Short-Term Firm transmission

service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreement be permitted to become effective on June 23, 1998.

FPL states that copies of this filing are being sent to The Energy authority, Inc., and Florida Public Service Commission.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Florida Power & Light Company

[Docket No. ER98–3625–000]

Take notice that on July 6, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Virginia Electric and Power Company for Short-Term Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreement be permitted to become effective on June 25, 1998.

FPL states that a copy of this filing is being sent to Virginia Electric and Power Company and the Florida Public Service Commission.

Comment date: July 24,, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Oklahoma Gas and Electric Company

[Docket No. ER98–3626–000]

Take notice that on July 6, 1998, Oklahoma Gas and Electric Company (OG&E), tendered for filing a proposed Power Supply and Transmission Service Agreement with the Southwestern Power Administration (SWPA), a Service Agreement for Network Integration Transmission Service, and a Standard Form of Network Operating Agreement.

Copies of this filing have been sent to SWPA, the Oklahoma Corporation Commission, and the Arkansas Public Service Commission.

OG&E requests an effective date of June 1, 1997.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Niagara Mohawk Power Corporation

[Docket No. ER98–3627–000]

Take notice that on July 6, 1998, Niagara Mohawk Power Corporation (ANMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Southern Company Energy Marketing, L.P. This Transmission Service Agreement specifies that Southern Company Energy Marketing, L.P., 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 Southern Company Energy Marketing, L.P., to enter into separately scheduled transactions under which NMPC will provide transmission service for Southern Company Energy Marketing, L.P., as the parties may mutually agree.

NMPC requests an effective date of June 29, 1998. 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 Southern Company Energy Marketing, L.P.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. New England Power Pool

[Docket No. ER98–3628–000]

Take notice that on July 6, 1998, the New England Power Pool Executive Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL), Agreement dated September 1, 1971, as amended, signed by Duke Energy Trading and Marketing, L.L.C., (DETM). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Executive Committee states that the Commission's acceptance of DETM's signature page would permit NEPOOL to expand its membership to include DETM. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make DETM a member in NEPOOL. NEPOOL requests an effective date of July 6, 1998, for commencement of participation in NEPOOL by DETM.

Comment date: July 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Pacific Gas and Electric Company

[Docket No. ER98–3629–000]

Take notice that on July 6, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing changes to a rate schedule covering services rendered by PG&E under an agreement with Midway-Sunset Cogeneration Company (Midway-Sunset), entitled The Pacific Gas and Electric Company Agreement for Installation, Allocation and Operation of Special Facilities for Parallel Operation of Non-Utility Owned Generation, dated November 20, 1987 (Agreement).

The filing seeks to revise the monthly Cost of Ownership rates under the Agreement, which are tied to PG&E's Electric Rule 2 rates, as filed with the California Public Utilities Commission (CPUC), to reflect the revised rates instituted by the CPUC, effective August 5, 1996. In addition, this filing requests automatic rate adjustments to the Agreement when future changes to PG&E's Electric Rule 2, rates occur pursuant to CPUC approval.

Copies of this filing have been served upon Midway-Sunset and the CPUC.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Louisville Gas and Electric Company

[Docket No. ER98–3630–000]

Take notice that on July 6, 1998, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Service Agreement between LG&E and Commonwealth Edison Company under LG&E's Rate Schedule GSS.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. New York State Electric Gas Corporation

[Docket No. ER98–3631–000]

Take notice that on July 6, 1998, New York State Electric & Gas Corporation (NYSEG), tendered for filing an amendment to the Rate Schedule No. 180 filed with FERC corresponding to an Agreement with the Oneida Madison Electric Cooperative, Inc., (OMEC). The proposed amendment would increase revenues by $126.49 based on the twelve month period ending June 30, 1998.

This rate filing is made pursuant to Section 3 of the December, 1996 Facilities Agreement between NYSEG and OMEC, filed with FERC. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve months ended December 31, 1997. The revised facilities charge is levied on the cost for the routine operation, maintenance and general expenses, and property, ad valorem, constructed by NYSEG for the sole use of OMEC.

NYSEG requests an effective date of July 1, 1998, and, therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Oneida Madison Electric Cooperative, Inc., and on the Public Service Commission of the State of New York.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Illinois Power Company

[Docket No. ER98–3632–000]

Take notice that on July 6, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Northern States Power Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 26, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. Florida Power & Light Company

[Docket No. ER98–3633–000]

Take notice that on July 6, 1998, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Amoco Energy Trading Corporation for Short-Term Firm and Non-Firm Transmission Service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on July 1, 1998.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. Public Service Electric and Gas Company

[Docket No. ER98–3634–000]

Take notice that on July 6, 1998, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to Tennessee Valley Authority (TVA), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of June 8, 1998.

Copies of the filing have been served upon TVA and the New Jersey Board of Public Utilities.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. Public Service Electric and Gas Company

[Docket No. ER98–3635–000]

Take notice that on July 6, 1998, Public Service Electric and Gas Company (PSE&G), of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to DTE Energy Trading, Inc. (DTE), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of June 8, 1998.

Copies of the filing have been served upon DTE and the New Jersey Board of Public Utilities.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

35. California Independent System Operator Corporation

[Docket No. ER98–3656–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing an amendment to Schedule 1 to the Participating Generator Agreement between the ISO and the Southern California Edison Company (SCE). The ISO states that the amendment revises the schedule to reflect SCE's sale of certain generating facilities.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

36. California Independent System Operator Corporation

[Docket No. ER98–3657–000]

Take notice that on July 6, 1998, the California Independent System Operator Corporation (ISO), tendered for filing an amendment to Schedule 1 to the Meter Service Agreement for ISO Metered Entities between the ISO and the Southern California Edison Company (SCE). The ISO states that the amendment revises the schedule to reflect SCE's sale of certain generating facilities.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

37. Piney Creek Limited Partnership

[Docket No. QF86–896–009]

Take notice that on June 26, 1998, Piney Creek Limited Partnership (Applicant), of R.R.2, Box 56, Highway 3016, Clarion, Pennsylvania 16214, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the Applicant, the facility is a 33 MW, waste-fueled small power production facility located in Piney Township, Clarion County, Pennsylvania. The Commission previously certified the facility as a qualifying small power production facility in *B&W Clarion, Inc.,* 38 FERC ¶ 62,001 (1987), and recertified in *Clarion Power Co.,* 39 FERC ¶ 61,317 (1987), in *Mid-Atlantic Energy Co. of PA, Inc.,* 52 FERC ¶ 62,072 (1990) and in *Piney Creek Limited Partnership,* 75 FERC ¶ 62,014 (1996). Notices of self-recertification were filed on January 13, 1987, January 19, 1990, October 31, 1990, March 14, 1995 and July 31, 1997. According to the application, the instant recertification is requested to assure that the facility will remain a qualifying facility following a change in ownership interest, a change in the characteristics of a particular fuel source, and an addition of certain waste fuel.

Comment date: August 19, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19066 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–462–000, et al.]

Southern California Edison Company, et al.; Electric Rate and Corporate Regulation Filings

July 7, 1998.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Company

[Docket No. ER98–462–000]

Take notice that on July 1, 1998, Southern California Edison Company (Edison), tendered for filing a revised Appendix to reflect the ISO offer of settlement approved by the Commission in Docket No. ER98–211–000, *et al.*, by letter order dated June 1, 1998.

The revised Appendix A reflects a pass-through to wholesale customers of the GMC, as charged to Edison by the ISO (on behalf of those customers for whom Edison serves as Scheduling Coordinator).

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER98–556–005]

Take notice that on July 1, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing proposed tariff language to comply with the Commission's June 1, 1998, letter order approving the settlement in Docket Nos. ER98–211–000, ER98–211–002, ER98–210–002, ER98–210–003, ER98–210–004, ER98–1729–001, ER98–1729–002, ER98–1729–003, ER98–462–000, ER98–556–002, ER98–556–003, ER98–557–002 and ER98–557–003. That decision approved a settlement of the California Independent System Operator Corporation's (ISO) 1998 Grid Management Charge (GMC) and PG&E's ISO Grid Management Charge Pass-Through to existing wholesale contract customers for 1998. The decision required PG&E to file revised rate sheets for those customers. PG&E requests that its filing be made effective March 31, 1998, except that the filing as to Power Exchange Corporation be made effective May 22, 1998. This filing is part of the comprehensive restructuring proposal for the California electric power industry that is before the Federal Energy Regulatory Commission.

Copies of this filing have been served upon the California Public Utilities Commission and all other parties on the Service List to this proceeding.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Carolina Power & Light Company

[Docket No. ER98–3385–000]

Take notice that on June 30, 1998, Carolina Power & Light Company (CP&L), tendered for filing an executed Service Agreement between CP&L and Virginia Electric and Power Company under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. This Service Agreement supersedes the un-executed Agreement originally filed in Docket No. ER98–3385–000.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Company

[Docket No. ER98–3542–000]

Take notice that on June 30, 1998, New England Power Company (NEP), tendered for filing Amendments to Service Agreements with the Town of Groveland, Massachusetts and the Town of Merrimac, Massachusetts under NEP's FERC Electric Tariff, Original Volume No. 1. The Amendments would terminate the obligation of Groveland and Merrimac to purchase from NEP, and the obligation of NEP to supply, all-requirements service and would obligate Groveland and Merrimac to compensate NEP by the payment of Contract Termination Charges. NEP also filed Amendments to Service Agreements for the provision to Groveland and Merrimac of Network Integration Transmission Service and a Network Operating Agreement under NEP's Open Access Transmission Tariff.

NEP requests an effective date of July 1, 1998, for the amendments in this filing.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Pennsylvania Electric Company

[Docket No. ER98–3544–000]

Take notice that on June 30, 1998, Pennsylvania Electric Company (Penelec), d/b/a GPU Energy, filed an executed Retail Transmission Service Agency Agreements between GPU Energy and Penn Power Energy dated May 19, 1998.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1997 and shall continue in effect until December 31, 1998, for the Retail Transmission Service Agency Agreements.

GPU Energy will be serving a copy of the filing on the Pennsylvania Public Utility Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Delmarva Power & Light Company

[Docket No. ER98–3548–000]

Take notice that on June 30, 1998, Delmarva Power & Light Company tendered for filing executed Umbrella Service Agreements with Tractebel Energy Marketing, Inc., Cargill-Alliant, L.L.C. and Enserch Energy Services, Inc., under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed in Docket ER96–2571–000.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Western Resources, Inc.

[Docket No. ER98–3358–000]

Take notice that on June 30, 1998, Western Resources, Inc., (Western Resources), tendered for filing a Service Agreement between Western Resources and Tractebel Energy Marketing, Inc. Western Resources states that the purpose of the agreement is to permit the customer to take service under Western Resources' Market-Based Power Sales Tariff on file with the Commission.

The agreement is proposed to become effective June 5, 1998.

Copies of the filing were served upon Tractebel Energy Marketing, Inc., and the Kansas Corporation Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Orange and Rockland Utilities, Inc.

[Docket No. ER98–3560–000]

Take notice that on June 30, 1998, Orange and Rockland Utilities, Inc. (Orange and Rockland), tendered for filing a revision to its Market-Based Power Sales tariff, which revision provides that Consolidated Edison, Inc., and its affiliates will be treated as affiliates of Orange and Rockland.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. FirstEnergy System

[Docket No. ER98–3567–000]

Take notice that on July 1, 1998, FirstEnergy System filed Service Agreements to provide Non-Firm Point-to-Point Transmission Service for Northern/AES Energy L.L.C., Northern Indiana Public Service Company, PG&E Energy Trading—Power, LP, VTEC Energy, Inc., Avista Energy, Inc., and New Energy Ventures, L.L.C., the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective dates under the Service Agreements is June 15, 1998 and July 1, 1998, respectively.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Carolina Power & Light Company

[Docket No. ER98–3569–000]

Take notice that on July 1, 1998, Carolina Power & Light Company (CP&L), tendered for filing executed Service Agreements with CNG Power Services Corporation and FirstEnergy Corp., under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. These Service Agreements supersede the un-executed Agreements originally filed in Docket No. ER98–3385–000.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Carolina Power & Light Company

[Docket No. ER98–3570–000]

Take notice that on July 1, 1998, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service executed between CP&L and Allegheny Power Service Corporation; and Service Agreements for Short-Term Firm Point-to-Point Transmission Service with Constellation Power Source and Allegheny Power Service Corporation. Service to each Eligible Customer 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: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. PacifiCorp

[Docket No. ER98–3571–000]

Take notice that on July 1, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Mutual Netting/Closeout Agreements between PacifiCorp and Washington Water Power Company and Benton County Public Utility District No. 1.

Copies of this filing were supplied the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 813–5758 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. FirstEnergy System

[Docket No. ER98–3572–000]

Take notice that on July 1, 1998, FirstEnergy System filed Service Agreements to provide Firm Point-to-Point Transmission Service for American Electric Power Service Corporation, Equitable Power Services Company, Northern/AES Energy, L.L.C., and Allegheny Power Service Corporation, the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective dates under these Service Agreements are June 15, 1998 and July 1, 1998, respectively, for the above mentioned Service Agreements in this filing.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3573–000]

Take notice that on July 1, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement between Consolidated Edison Company of New York, Inc., and Entergy Power Marketing Corporation to provide Non-Firm Point-To-Point transmission service pursuant to its Open Access Transmission Tariff to Entergy Power Marketing Group (Entergy).

Con Edison states that a copy of this filing has been served by mail upon Entergy.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. PacifiCorp

[Docket No. ER98–3574–000]

Take notice that on July 1, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Revision No. 3 to Appendix A, Revision No. 4 to Appendix B and Revision No. 1 to Appendix E of the Transmission Service and Operating Agreement (Agreement) between PacifiCorp and Utah Associated Municipal Power Systems (UAMPS).

Copies of this filing were supplied to UAMPS, the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 813–5758 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Central Maine Power Company

[Docket No. ER98–3575–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy with Tractebel Energy Marketing, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Central Maine Power Company

[Docket No. ER98–3576–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Great Bay Power Corporation. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Central Maine Power Company

[Docket No. ER98–3577–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP),

tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Enserch Energy Services, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Central Maine Power Company

[Docket No. ER98–3578–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Noram Energy Services, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Central Maine Power Company

[Docket No. ER98–3579–000]

Take notice that on July 1, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Fitchburg Gas and Electric Light Company. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Central Maine Power Company

[Docket No. ER98–3580–000]

Take notice that on July 1, 1998, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Coral Power, L.L.C. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Commonwealth Electric Company Cambridge Electric Light Company

[Docket No. ER98–3581–000]

Take notice that on July 1, 1998, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and Vermont Public Power Supply Authority

These Service Agreements specify that the Customer has signed on to and has agreed to the terms and conditions of the Companies' Market-Based Power Sales Tariffs designated as Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9).

These Tariffs, accepted by the FERC on February 27, 1997, and which have an effective date of February 28, 1997, will allow the Companies and the Customer to enter into separately scheduled short-term transactions under which the Companies will sell to the Customer capacity and/or energy as the parties may mutually agree.

The Companies and the Customer have also filed a Notice of Cancellation for service under the Companies' Power Sales and Exchange Tariffs (FERC Electric Tariff Original Volume Nos. 3 and 5).

The Companies request an effective date as specified on each Service Agreement and Notice of Cancellation.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19065 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL98–56–000, et al.]

Southern Company Energy Marketing, L.P., et al.; Electric Rate and Corporate Regulation Filings

July 8, 1998.

Take notice that the following filings have been made with the Commission:

1. Southern Company Energy Marketing L.P.

[Docket No. EL98–56–000]

Take notice that on June 30, 1998, Southern Company Energy Marketing L.P. (Southern), tendered for filing a notice of termination, emergency request for waiver of notice, and alternative request for relief concerning certain agreements for the provision of electric service to Power Company of America, LP

Comment date: August 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. California Power Exchange Corporation

[Docket Nos. EC96–19–033 and ER96–1663–034]

Take notice that on July 1, 1998, the California Power Exchange Corporation (PX), tendered for filing compliance changes to the PX Operating Agreement and Tariff and Protocols incorporating PX Tariff Amendment No. 1, in response to the Commission order issued June 1, 1998, California Power Exchange Corporation, 83 FERC ¶ 61,241 (1998).

The PX states that its filing has been served on all parties listed on the official service list in the above-captioned dockets.

Comment date: July 28, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Central Maine Power Company, The Union Water-Power Company, Cumberland Securities Corporation, Central Securities Corporation, FPL Energy Maine, Inc., FPL Energy Maine Hydro, LLC, FPL Energy Mason, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyman, LLC, FPL Energy AVEC, LLC

[Docket Nos. EC98–45–000 and ER98–3507–000]

Take notice that on June 26, 1998, Central Maine Power Company, the Union Water-Power Company, Cumberland Securities Corporation, Central Securities Corporation, (collectively referred to as Central

Maine) and FPL Energy Maine, Inc., FPL Energy Maine Hydro, LLC, FPL Energy Mason, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyman, LLC and FPL Energy AVEC, LLC (collectively referred to as FPL Energy Maine), tendered for filing an application under Sections 203 and 205 of the Federal Power Act in connection with the sale and purchase of all of Central Maine's fossil, hydroelectric and biomass generation facilities to FPL Energy Maine.

This sale is made pursuant to the terms of an Asset Purchase Agreement dated January 6, 1998 and an executed Term Sheet Regarding Supplemental Agreements dated June 16, 1998 (together the Asset Agreement). The Asset Agreement permits FPL Energy Maine to assign its interest in the purchased assets, and FPL Energy Maine has assigned its rights, in large part, to FPL Energy Maine Hydro, LLC, FPL Energy Mason, LLC, FPL Energy Wyman IV, LLC, FPL Energy Wyman, LLC and FPL Energy AVEC, LLC.

Pursuant to FPA Section 205, 16 U.S.C. § 824d, the Applicants also are requesting approval of certain agreements made in connection with the sale of generation assets, including the Continuing Site/Interconnection Agreement, the First Amendment to the Continuing Site/Interconnection Agreement and the two Transitional Power Sale Agreements.

Comment date: August 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Steel Dynamics, Inc., v. American Electric Power Service Corporation and AEP Power Marketing, Inc., and All Other Unnamed Persons and Entities, Authorized To Sell Electric Energy and Capacity at Wholesale Market-Based Rates

[Docket No. EL98–54–000]

Take notice that on June 29, 1998, Steel Dynamics, Inc. (Steel Dynamics), tendered for filing a Complaint against American Electric Power Service Corporation and AEP Power Marketing, Inc., and All Other Unnamed Persons and Entities Authorized to Sell Electric Energy and Capacity at Wholesale Market-Based Rates in the ECAR region. Steel Dynamics requests that the Commission: (1) Initiate an investigation into the electric energy and capacity supply situation in the Midwest; (2) Initiate an investigation to determine the reasons for the extraordinary high prices; (3) Investigate whether refunds should be ordered; (4) Suspend all grants of authority to sell electric energy and capacity at market-based rates; (5) Initiate an emergency energy pricing ceiling of $100/Mwh for all transactions; (6) Impose harsh penalties for non-compliance with the order, and (6) Issue the order on an interim basis until the Commission has completed its investigation.

Comment date: August 7, 1998, in accordance with Standard Paragraph E at the end of this notice. Answer to the Complaint shall be due on or before August 7, 1998.

5. Indiana Municipal Power Agency v. PSI Energy, Inc.

[Docket No. EL98–55–000]

Take notice that on June 29, 1998, Indiana Municipal Power Agency (IMPA), tendered for filing a Complaint against PSI Energy, Inc. (PSI). IMPA requests that the Commission (1) Rule that PSI is violating the Power Coordination Agreement between PSI and IMPA by charging IMPA for Supplemental Power and Energy as if certain loads are being served by PSI when they are in fact being served from IMPA's power supply resources; (2) Rule that PSI's charges of this nature are unjust and unreasonable; (3) Establish a refund effective date no later than August 28, 1998, 60 days after the filing of this complaint; (4) Establish the basis upon which PSI's charges for Supplemental Power and Energy are thereafter to be developed to ensure proper credit for IMPA resources; (5) In the event that changes in the language of the applicable service schedule are determined to be necessary to provide proper credit for IMPA's resources, modify the provisions of the service schedule accordingly to be thereafter observed and in force; and (6) If unable to grant the requested relief on the basis of the pleadings, initiate an investigation and hearing procedures.

Comment date: August 7, 1998, in accordance with Standard Paragraph E at the end of this notice. Answer to the Complaint shall be due on or before August 7, 1998.

6. New Energy Ventures, L.L.C.

[Docket No. EL98–57–000]

Take notice that on June 30, 1998, New Energy Ventures, L.L.C. (NEV), tendered for filing a notice of termination, emergency request for waiver of notice, and alternative request for relief concerning certain agreements for the provision of electric service to The Power Company of America, L.P., entered into pursuant to NEV's Rate Schedule FERC No. 1.

Comment date: August 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER95–1240–003]

Take notice that on July 1, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations and the Commission's Order under FERC Docket No. ER95–1240–000, dated April 21, 1998, a refund report.

Copies of this filing were supplied to the Colorado Public Utilities Commission, the Wyoming Public Service Commission, the Arizona Corporation Commission, the California Public Utilities Commission, the Montana Public Service Commission, the Public Utility Commission of Oregon, and the Washington Utilities and Transportation Commission and all affected wholesale customers.

A copy of this filing may be obtained from PacifiCorp's Transmission Function's Bulletin Board System through a personal computer by calling (503) 813–5758 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Total Gas & Electricity, Inc.

[Docket No. ER97–4202–003]

Take notice that on July 2, 1998, Total Energy, Inc., tendered for filing notice of name change to Total Gas & Electricity, Inc.

Comment date: July 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Company

[Docket No. ER98–557–000]

Take notice that on July 2, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing revisions to its April 30, 1998, filing made in Docket No. ER98–556–000 in response to the Federal Energy Regulatory Commission's (Commission) March 31, 1998, Order Clarifying Prior Order and Granting and Denying Requests for Rehearing in that Docket.

Copies of this filing have been served upon the parties on the service list and the California Public Utilities Commission.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Northern States Power Company (Minnesota Company)

[Docket No. ER98–3555–000]

Take notice that on June 30, 1998, Northern States Power Company (Minnesota) (NSP), tendered for filing an Agreement dated June 15, 1998, between NSP and the City of Shakopee

(City). In a previous agreement dated June 10, 1997, between the two parties, City agreed to continue paying NSP the current wholesale distribution substation rate of $0.47/kW-month until June 30, 1998. Since the June 10, 1997, agreement has terminated, this new Agreement has been executed to continue the current wholesale distribution substation rate of $0.47/kW-month until June 30, 1999.

NSP requests that the Agreement be accepted for filing effective July 1, 1998, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Pacific Gas and Electric Company

[Docket No. ER98–3582–000]

Take notice that on July 1, 1998, Pacific Gas and Electric Company (PG&E), tendered for filing Amendment No. 6, to the Comprehensive Agreement between State of California Department of Water Resources and Pacific Gas and Electric Company (Agreement). Amendment No. 6, modifies certain terms and provisions of the Agreement to extend its term and to accommodate DWR becoming its own Scheduling Coordinator under the Tariffs and Protocols of the California Independent Systems Operator.

The Agreement and its appendices were originally accepted for filing by the Commission in FERC Docket No. ER83–142–000 and designated as PG&E Rate Schedule FERC No. 77.

Copies of this filing were served upon DWR and the California Public Utilities Commission.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Southwest Power Pool

[Docket No. ER98–3583–000]

Take notice that on July 1, 1998, Southwest Power Pool (SPP), tendered for filing ten executed service agreements for Short-Term Firm Point-To-Point transmission service and Non-Firm Point-To-Point Firm Transmission Service under SPP's Open Access Transmission Tariff.

Copies of this filing were served upon each of the parties to these agreements.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Mexico

[Docket No. ER98–3584–000]

Take notice that on July 1, 1998, Public Service Company of New Mexico (PNM), submitted for filing a service agreement dated June 22, 1998, for Firm Point-To-Point Transmission Service between PNM (Transmission Provider) and Southwestern Public Service Company (Transmission Customer), under the terms of PNM's Open Access Transmission Service Tariff. The transmission service is for specified MW amounts of Reserved Capacity for the months of July and August 1998, from the Four Corners (345 kV) Switchyard (Point of Receipt) to the Roosevelt 230 kV Bus (Point of Delivery).

PNM requests an effective date of July 1, 1998, for this agreement.

PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Company of New Mexico

[Docket No. ER98–3585–000]

Take notice that on July 1, 1998, Public Service Company of New Mexico (PNM), submitted for filing an executed service agreement, for Short-Term Firm Point-to-Point Transmission Service under the terms of PNM's Open Access Transmission Service Tariff, with Arizona Public Service Company (APS) dated June 25, 1998. PNM will provide APS with firm transmission service for a three-month period beginning July 1, 1998, on PNM's Palo Verde to Westwing transmission path.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Southwestern Public Service

[Docket No. ER98–3586–000]

Take notice that on July 1, 1998, Southwestern Public Service Company (SPS), submitted a Power Sale Agreement with Lubbock Power and Light, City of Lubbock (LP&L).

SPS proposes to make the effective date for the Agreement June 20, 1998, the date service to LP&L began.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Allegheny Power Service Corp., on Behalf of Monongahela Power Co. The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER98–3587–000]

Take notice that on July 1, 1998, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 31 to add Eastern Power Distribution, Inc. (EPDI), to Allegheny Power's Open Access Transmission Service Tariff which has been submitted for filing in Docket No. OA96–18–000. Accordingly Supplement No. 31 includes a Non-Firm Point-To-Point Transmission Service Agreement with EPDI.

The proposed effective date under the Service Agreement is June 30, 1998.

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.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Enron Energy Services, Inc.

[Docket No. ER98–3588–000]

Take notice that on July 1, 1998, Enron Energy Services, Inc. (Enron Energy), tendered for filing a Notification of Change in Status (Notification). The Notification informs the Commission that Enron Energy's affiliate Portland General Electric Company (PGE), intends to offer certain non-jurisdictional brokering services to all participants in the Western Systems Coordinating Council, including Enron Energy and other PGE affiliates, and concludes that these transactions do not alter the characteristics that the Commission relied upon in approving the market-based pricing for EES.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Enron Power Marketing, Inc.

[Docket No. ER98–3589–000]

Take notice that on July 1, 1998, Enron Power Marketing, Inc. (EPMI), tendered for filing a Notification of Change in Status (Notification). The Notification informs the Commission that EPMI's affiliate Portland General Electric Company (PGE), intends to offer certain non-jurisdictional brokering services to all participants in the

Western Systems Coordinating Council, including EPMI and other PGE affiliates, and concludes that these transactions do not alter the characteristics that the Commission relied upon in approving the market-based pricing for EPMI.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Wisconsin Electric Power Company

[Docket No. ER98–3591–000]

Take notice that on July 2, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Short-Term Firm and Non-Firm Transmission Service Agreement under Wisconsin Energy Corporation Operating Company's FERC Electric Tariff, Original Volume No. 1.

Wisconsin Electric respectfully requests an effective date coincident with its filing.

Copies of the filing have been served on all transmission service customers, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Commonwealth Edison Company

[Docket No. ER98–3592–000]

Take notice that on July 2, 1998, Commonwealth Edison Company (ComEd), tendered for filing a service agreement establishing Amoco Energy Trading Corporation (AETC), Duke/Louis Dreyfus, L.L.C. (LDFS), El Paso Energy Marketing (EPEM), Entergy Services, Inc. (EPMI), Griffin Energy Marketing L.L.C. (GEM), MidAmerican Energy Company (MEC), Tractebel Energy Marketing Inc. (TEMI), as customers under ComEd's FERC Electric Market Based-Rate Schedule for power sales.

ComEd requests an effective date of June 17, 1998 and, accordingly, seek waiver of the Commission's notice requirements.

ComEd states that a copy of the filing was served on the Illinois Commerce Commission and an abbreviated copy of the filing was served on each affected customer.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. PJM Interconnection, L.L.C.

[Docket No. ER98–3593–000]

Take notice that on July 2, 1998, PJM Interconnection, L.L.C. (PJM), filed on behalf of the Members of the LLC, membership applications of DTE Edison America, Inc., Enron Energy Services, Inc., and Tosco Power, Inc. PJM requests an effective date on the day after this Notice of Filing is received by FERC.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. The Dayton Power and Light Company

[Docket No. ER98–3595–000]

Take notice that on July 2, 1998, The Dayton Power and Light Company (Dayton), submitted service agreements establishing with e prime, Inc., Engage Energy US, L.P., Rainbow Energy Marketing Corporation as customers under the terms of Dayton'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 the this filing were served upon e prime, Inc., Engage Energy US, L.P., Rainbow Energy Marketing Corporation and the Public Utilities Commission of Ohio.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. The Dayton Power and Light Company

[Docket No. ER98–3596–000]

Take notice that on July 2, 1998, The Dayton Power and Light Company (Dayton), tendered for filing Short-Term Firm Transmission Service Agreements with Allegheny Power Service Corporation, Electric Clearinghouse, Inc., e prime, Inc., Morgan Stanley Capital Group Inc., under the terms of Dayton'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 the this filing were served Allegheny Power Service Corporation, Electric Clearinghouse, Inc., e prime, Inc., Morgan Stanley Capital Group Inc., and the Public Utilities Commission of Ohio.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. The Dayton Power and Light Company

[Docket No. ER98–3597–000]

Take notice that on July 2, 1998 The Dayton Power and Light Company (Dayton), submitted service agreements establishing Delmarva Power and Light Company, Plum Street Energy Marketing, Inc., Ohio Valley Electric Corporation 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 this filing were served upon Delmarva Power and Light Company, Plum Street Energy Marketing, Inc., Ohio Valley Electric Corporation and the Public Utilities Commission of Ohio.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Carolina Power & Light Company

[Docket No. ER98–3598–000]

Take notice that on July 2, 1998, Carolina Power & Light Company (CP&L), tendered for filing an executed Service Agreement with First Energy Trading and Power Marketing Inc., under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. This Service Agreement supersedes the un-executed Agreement originally filed in Docket No. ER98–3395–000.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Idaho Power Company

[Docket No. ER98–3599–000]

Take notice that on July 2, 1998, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and The Montana Power Company under Idaho Power Company FERC Electric Tariff No. 5, Open Access Transmission Tariff.

Idaho Power Company requests that the service agreement become effective June 15, 1998.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Niagara Mohawk Power Corporation

[Docket No. ER98–3600–000]

Take notice that on July 2, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing Notice of Cancellation of FERC Rate Schedule No. 205 and any supplements thereto, effective June 10, 1994 with

New York State Electric and Gas Corporation (NYSEG).

Copies of this Notice of the proposed cancellation has been served upon New York State Electric and Gas Corporation.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Enron Power Marketing, Inc.

[Docket No. ER98–3601–000]

Take notice that on July 2, 1998, Enron Power Marketing, Inc., tendered for filing a Notice of Cancellation of its Electric Rate Schedule FERC No. 44, to become effective September 30, 1998.

Enron Power Marketing, Inc., served a copy of the filing on the Bonneville Power Administration, the only other party to Rate Schedule FERC No. 44.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3603–000]

Take notice that on July 2, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 94 for transmission service for Long Island Lighting Company (LILCO).

The Rate Schedule provides for transmission of power and energy from the New York Power Authority's Blenheim-Gilboa station. The Supplement provides for a decrease in annual revenues under the Rate Schedule.

Con Edison has requested that this increase take effect on July 1, 1998.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. Texas-New Mexico Power Company

[Docket No. ER98–3604–000]

Take notice that on July 2, 1998, Texas-New Mexico Power Company (TNMP), tendered for filing an Interconnection Agreement between TNMP, Public Service Company of New Mexico (PNM) and the City of Las Cruces. TNMP tenders with the filing a PNM certificate of concurrence.

TNMP requests that the Commission waive its notice requirement an effective date as of February 1, 1998.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Doswell Limited Partnership

[Docket No. ER98–3606–000]

Take notice that on July 2, 1998, Doswell Limited Partnership (Doswell), tendered for filing an amendment to the Power Purchase and Operating Agreement (the Second Amendment) between Doswell and Virginia Electric and Power Company (Virginia Power). Doswell states that the Second Amendment modifies certain components of the energy rate, as well as certain non-rate terms and conditions, for Doswell's sales of generating capacity and energy to Virginia Power. The amount of capacity to be sold, and the capacity charge component of the rate, are unaffected by the Second Amendment.

Comment date: July 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19064 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–90–000, et al.]

Tiverton Power Associates Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

July 6, 1998.

Take notice that the following filings have been made with the Commission:

1. Tiverton Power Associates Limited Partnership

[Docket No. EG98–90–000]

Take notice that on June 25, 1998, Tiverton Power Associates Limited Partnership (Tiverton) c/o Dennis J. Duffy, Esq., Partridge, Snow & Hahn, 180 South Main Street, Providence, Rhode Island 02903, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Tiverton will own and operate an approximately 265 megawatt electric generation facility located in Tiverton, Rhode Island, producing electricity for sale exclusively at wholesale.

Comment date: July 14, 1998, 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.

2. California Independent System Operator Corporation

[Docket Nos. EC96–19–031 and ER96–1663–032]

Take notice that on June 29, 1998, the California Independent System Operator Corporation (ISO), filed a clarification of its proposed Amendment No. 7 to the ISO Operating Agreement and Tariff (including protocols) in response to the Commission's order dated May 28, 1998, *California Independent System Operator Corporation,* 83 FERC ¶ 61,209 (1998).

Comment date: July 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. San Diego Gas & Electric Company and Enova Energy, Inc.

[Docket No. EC97–12–003]

Take notice that on June 26, 1998, San Diego Gas & Electric Company and Enova Energy, Inc., tendered for filing a revised version of the Required Mitigation Measures that were approved by the California Public Utilities Commission in its April 2, 1998, order.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc., Consolidated Edison Energy, Inc., Consolidated Edison Solutions

[Docket Nos. ER98–2491–001, ER97–707–000, and ER97–705–000 (not consolidated)]

Take notice that on June 30, 1998, Consolidated Edison Company of New York, Inc., Consolidated Edison Energy, Inc. and Consolidated Edison Solutions,

Inc. (the Companies), tendered for filing in the above-referenced dockets compliance filings to the Commission's Order Conditionally Accepting For Filing Proposed Market-Based Rates And Directing Revisions To Tariffs And Codes Of Conduct, issued June 1, 1998 (83 FERC ¶ 61, 236).

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER98–2640–001]

Take notice that on June 30, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) tendered for revised copies of its compliance filing in the above-referenced docket.

Comment date: July 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Duke Energy Moss Landing LLC

[Docket No. ER98–2668–002]

Take notice that on June 30, 1998, in accordance with the Commission's June 25, 1998, Order Accepting For Filing and Suspending Reliability Must-Run Tariffs, Summarily Dismissing Proposed Acquisition Adjustment, Consolidating Tariffs and Establishing Hearing Procedures, 83 FERC ¶ 61,318 (1998) (June 25, 1998, Order) 18 CFR 35.10(c), Duke Energy Moss Landing (DEML), submitted for filing the revised sheets of its Must-Run Rate Schedule. In addition to the revised sheets submitted for inclusion in its Reliability Must-Run Rate Schedule, DEML also submitted workpapers setting forth the calculation of the revised rates.

DEML requests that the revised Reliability Must-Run sheets be permitted to become effective July 1, 1998.

Copies of the filing were served upon the California ISO, the Public Utilities Commission of the State of California and all parties to this proceeding.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Mississippi Power Company

[Docket No. ER98–3531–000]

Take notice that on June 29, 1998, Mississippi Power Company and Southern Company Services, Inc., its agent, tendered for filing a Service Agreement, pursuant to the Southern Companies Electric Tariff Volume No. 4—Market Based Rate Tariff, with South Mississippi Electric Power Association for the Wellman Delivery Point to Coast Electric Power Association. The agreement will permit Mississippi Power to provide wholesale electric service to South Mississippi Electric Power Association at a new service delivery point.

Copies of the filing were served upon South Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: July 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Baltimore Gas and Electric Company

[Docket No. ER98–3537–000]

Take notice that on June 30, 1998, Baltimore Gas and Electric Company (BGE), filed Service Agreements with South Jersey Energy Company, dated May 18, 1998; and American Electric Power Service Corp., dated May 31, 1998, under BGE's FERC Electric Tariff Original Volume No. 3 (Tariff). Under the Service Agreements, BGE agrees to provide services to the parties to the Service Agreements under the provisions of the Tariff.

BGE requests an effective date of June 26, 1998 for the Service Agreements.

BGE states that a copy of the filing was served upon the Public Service Commission of Maryland and parties to the Service Agreements.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Pool

[Docket No. ER98–3538–000]

Take notice that on June 30, 1998, the New England Power Pool Executive Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL), Agreement dated September 1, 1971, as amended, signed by Public Service Electric and Gas Company (PSE&G). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Executive Committee states that the Commission's acceptance of PSE&G's signature page would permit NEPOOL to expand its membership to include PSE&G. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make PSE&G a member in NEPOOL.

NEPOOL requests an effective date of September 1, 1998, for commencement of participation in NEPOOL by PSE&G.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. American Electric Power Service Corporation

[Docket No. ER98–3539–000]

Take notice that on June 30, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing executed Firm Point-To-Point and Non-Firm Point-To-Point Service Agreements under the AEP Companies' Open Access Transmission Service Tariff (OATT). The OATT has been designated as FERC Electric Tariff Original Volume No. 4, effective July 9, 1996.

AEPSC requests waiver of Commission's notice requirements to permit the Service Agreements to be made effective for service billed on and after June 1, 1998.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Pool

[Docket No. ER98–3540–000]

Take notice that on June 30, 1998, the New England Power Pool Executive Committee tendered for filing acceptance a signature page to the New England Power Pool (NEPOOL), Agreement dated September 1, 1971, as amended, signed by TransCanada Power Marketing Ltd., (TCPM). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Executive Committee states that the Commission's acceptance of TCPM's signature page would permit NEPOOL to expand its membership to include TCPM. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make TCPM a member in NEPOOL.

NEPOOL requests an effective date of July 1, 1998, for commencement of participation in NEPOOL by TCPM.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Idaho Power Company

[Docket No. ER98–3541–000]

Take notice that on June 30, 1998, Idaho Power Company (IPC), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and Amoco Energy Trading Corporation under Idaho Power Company's FERC Electric Tariff No. 5, Open Access Transmission Tariff.

IPC requests that the service agreement become effective on May 21,

1998, and a rate schedule number be designated.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Central Maine Power Company

[Docket No. ER98–3545–000]

Take notice that on June 30, 1998, Central Maine Power Company (CMP), tendered for filing executed service agreements for the sale of capacity energy with NORESCO; North American Energy Conservation, Inc; Promark Energy; Power Company of America, L.P., and US Gen Power Services. These service agreements are entered into under CMP's Wholesale Market Tariff, Volume No. 4.

CMP requests waiver of the Commission's notice requirements to permit the service agreements to become effective June 30, 1998.

Copies of this filing have been served upon the Maine Public Utilities Commission and the persons listed on the service list.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Central Maine Power Company

[Docket No. ER98–3546–000]

Take notice that on June 30, 1998, Central Maine Power Company (CMP), tendered for filing a service agreements for the sale of capacity and/or energy from CMP to Equitable Power Service Company, Maine Public Service Company, Morgan Stanley Capital Group, Inc., and New Energy Ventures, L.L.C.

CMP requests waiver of the Commission's notice requirements to permit service under the Agreements to become effective as of June 30, 1998.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Central Maine Power Company

[Docket No. ER98–3547–000]

Take notice that on June 30, 1998, Central Maine Power Company (CMP), tendered for filing executed service agreements for sale of capacity and/or energy entered into with Connecticut Municipal Electric Energy Cooperative; CNG Power Service Corp.; Engage Energy US, L.P.; and Entergy Power Marketing Corp. This Service Agreements are entered into under CMP's Wholesale Market Tariff, Volume No. 4.

CMP requests waiver of the Commission's notice requirements to permit service under the Agreements to become effective June 30, 1998.

Copies of this filing have been served upon Maine Pubic Utilities Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Company

[Docket No. ER98–3550–000]

Take notice that on June 30, 1998, New England Power Company (NEP), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement with Tractebel Energy Marketing, Inc., under its tariff for capacity and capacity related products, NEP Electric Tariff No. 10, which is on file with the Commission as NEP's FERC Electric Tariff Original Volume No. 11.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. ConAgra Energy Services, Inc.

[Docket No. ER98–3551–000]

Take notice that on June 30, 1998, ConAgra Energy Services, Inc. (CES), a broker and marketer of electric power, has filed a notice of cancellation pursuant to 18 CFR 35.15, as to the Power Sale And Purchase Agreement between CES and The Power Company of America, L.P. (PCA), entered into on June 16, 1997, under CES's Rate Schedule FERC No. 1.

CES has also filed a motion for waiver of the Commission's filing requirement under 18 CFR 35.15, so as to permit CES to terminate service to PCA as of July 1, 1998, by reason of PCA's default under the agreement.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Metropolitan Edison Company

[Docket No. ER98–3553–000]

Take notice that on June 30, 1998, Metropolitan Edison Company (Met-Ed), d/b/a GPU Energy filed an executed Retail Transmission Service Agency Agreements between GPU Energy and Penn Power Energy dated May 19, 1998.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1997, for the Retail Transmission Service Agency Agreements.

GPU Energy will be serving a copy of the filing on the Pennsylvania Public Utility Commission.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Utilities Service Company

[Docket No. ER98–3557–000]

Take notice that on June 30, 1998, Northeast Utilities Service Company (NUSCO) on behalf of its affiliates, The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service Company of New Hampshire (together the NU Companies), tendered for filing an executed Purchase of Supplemental Capacity and Supplemental Energy agreement with New York Municipal Power Agency, dated August 19, 1996, and a First Amendment to the Agreement for Purchase of Supplemental Capacity and Supplemental Energy, dated June 26, 1998, pursuant to the NU Companies' market-based rate authority.

A copy of this filing was served upon the New York Municipal Power Agency.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. New England Power Pool

[Docket No. ER98–3568–000]

Take notice that on June 30, 1998, the New England Power Pool (NEPOOL), Executive Committee submitted materials related to its filing on December 31, 1996 in the captioned dockets. These materials consist of Market Rules 13, 14, and 3 which relate to NEPOOL's proposed new market provisions and provide, among other things, for the authority of the NEPOOL ISO to impose sanctions for failure to meet certain Participant obligations.

The NEPOOL Executive Committee states that copies of these materials were sent to all persons identified on the Commission's official service lists in the captioned dockets, the New England State Governors and Regulatory Commissions and the participants in the New England Power Pool.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. New England Power Company

[Docket No. ER98–3590–000]

Take notice that on June 30, 1998, New England Power Company (NEP), tendered for filing a supplement to an amendment to Granite State Electric Company's service agreement under NEP's FERC Electric Tariff, Original Volume No. 1.

NEP requests waiver of the Commission's notice requirements to permit the Supplement to become effective date of July 1, 1998.

A copy of this filing has been served on Granite State, as well as regulatory agencies in New Hampshire.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. California Independent System Operator Corporation

[Docket No. ER98–3594–000]

Take notice that on June 30, 1998, the California Independent System Operator Corporation (ISO), tendered for filing Amendment No. 9, to the ISO Tariff governing the issuance and use of Firm Transmission Rights.

The ISO states that this filing has been served on all parties listed on the official service list in the Docket Nos. EL96–19 and ER96–1663.

Comment date: July 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Open Access Same-time Information System (OASIS) and Standards of Conduct

[Docket No. RM95–9–000]

Take notice that on June 11, 1998, the Commercial Practices Working Group (Commercial Practices Group), filed a letter seeking prompt Commission confirmation that members may voluntarily participate in an industry experiment to improve the completion of next hour transactions by using trial procedures for completing next-hour transactions during a four month experiment. After assessing the results of this test, the Commercial Practices Group may offer further recommendations as warranted.

We invite written comments on this filing on or before July 17, 1998. Any person desiring to submit comments should file an original and 14 paper copies and one copy on a computer diskette in WordPerfect 6.1 format or in ASCII format with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The comments must contain a caption that references Docket No. RM95–9–000.

Copies of this filing are on file with the Commission and are available for public inspection. The filing will also be posted on the Commission Issuance Posting System (CIPS), an electronic bulletin board and World Wide Web (at WWW.FERC.FED.US) service, that provides access to the texts of formal documents issued by the Commission. The complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

24. Open Access Same-time Information System (OASIS) and Standards of Conduct

[Docket No. RM95–9–000]

Take notice that on June 19, 1998, the Commercial Practices Working Group (Commercial Practices Group), jointly with the OASIS How Working Group (How Group), tendered for filing a report entitled Industry Report to the Federal Energy Regulatory Commission on OASIS Phase 1–A Business Practices. The Commercial Practices Group and How Group state that the report reflects a consensus based on diverse viewpoints within various customer and provider industry segments. The report offers for Commission adoption a set of business practice standards and guidelines designed to implement FERC policy on transmission service price negotiation and improved consistency of Customer-Provider interactions across OASIS nodes.

We invite written comments on this filing on or before July 31, 1998. Any person desiring to submit comments should file an original and 14 paper copies and one copy on a computer diskette in WordPerfect 6.1 format or in ASCII format with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The comments must contain a caption that references Docket No. RM95–9–000.

Copies of this filing are on file with the Commission and are available for public inspection. The filing will also be posted on the Commission Issuance Posting System (CIPS), an electronic bulletin board and World Wide Web (at WWW.FERC.FED.US) service, that provides access to the texts of formal documents issued by the Commission. The complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

25. Edison Sault Electric Company

[Docket No. OA98–14–000]

Take notice that on May 26, 1998, Edison Sault Electric Company (Edison Sault), tendered for filing standards of conduct. The Commission previously granted Edison Sault a waiver from the Order No. 889 requirements.[1] Edison Sault states that it is submitting standards of conduct in light of the merger between Wisconsin Energy Corporation, Inc., and ESELCO, Inc., the parent company of Edison Sault.[2]

Comment date: July 16, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19067 Filed 7–98; 8:45 am]

BILLING CODE 6717–01–P

[1] *See* Black Hills Hydro, Inc., 77 FERC ¶ 61,232 at 61,944 (1996).

[2] *See* Wisconsin Energy Corporation, Inc., 83 FERC ¶ 61,069 (1998) (approving the proposed merger).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 10822–000 and 10823–000 Connecticut]

Summit Hydropower Company; Notice of Availability of Draft Environmental Assessment

July 13, 1998.

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 original license for the Upper Collinsville Hydroelectric Project and the Lower Collinsville Hydroelectric Project, located on the Farmington River in Hartford County, Connecticut, and has prepared a Draft Environmental Assessment (DEA) for the projects.

Copies of the DEA are available in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. For further information, contact James T. Griffin at (202) 219–2799.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19091 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–203–000 and RP 98–203–000]

Northern Natural Gas Company; Notice of Technical Conference

July 13, 1998.

In the Commission's order issued on May 28, 1998, the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Wednesday, July 15, 1998, at 10:00 a.m., in Hearing Room 6, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested parties and Staff are permitted to attend.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19090 Filed 7–16–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6125–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; NSPS Standards of Performance for Coal Preparation Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart Y—Standards of Performance for Coal Preparation Plants, OMB Control Number 2060-0122, expiration date August 31, 1998. 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 August 17, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr/icr.htm, and refer to EPA ICR No. 1062.06.

SUPPLEMENTARY INFORMATION:

Title: NSPS Subpart Y—Standards of Performance for Coal Preparation Plants (OMB Control Number 2060–0122; EPA ICR No. 1062.06) expiring August 31, 1998. This is a request for extension of a currently approved collection.

Abstract: Owners or operators of the affected facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of start-up; and notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate.

Owners or operators are also required to maintain records of the occurrence and duration of any start-up, shutdown, or malfunction in the operation of an affected facility. These notifications, reports, and records are required, in general for all sources subject to NSPS. There are no additional recordkeeping or reporting requirements specific to coal preparation plants.

Owners or operators of all affected facilities shall install, calibrate, maintain, and continuously operate a monitoring device which continuously measures the temperature of the gas stream of the thermal dryer, and if applicable, the pressure drop across the process scrubbing system. Therefore, the recordkeeping requirements for coal preparation plants that have thermal dyers consist of the occurrence and duration of any start-up and malfunction as described, temperature, pressure drop across any scrubber system, measurements of PM emissions, and the initial performance test results including conversion factors, measurements of PM emissions, and daily charge rates and hours of operation. Records of start-ups, shutdowns, and malfunctions should be noted as they occur. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, maintenance reports and records.

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** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 5, 1998 (63 FR 10870). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 37 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: Owners/Operators of Coal Preparation Plants.

Estimated Number of Respondents: 399.

Frequency of Response: Occasionally.

Estimated Total Annual Hour Burden: 14,729 hours.

Estimated Total Annualized Cost Burden: $14,060.

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. 1062.06 and OMB Control No.2060–0122 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: July 13, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–19138 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5493–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared June 29, 1998 Through July 2, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (63 FR 17856).

Draft EISs

ERP No. D–AFS–J65283–CO Rating EC2, North Fork Salvage Timber Analysis Area, Implementation, Medicine Bow-Routt National Forest, Routt County, CO.

Summary: EPA expressed environmental concerns and requested additional information related to increased sediment potential, large woody debris mitigation and road closure methodology.

ERP No. D–AFS–J65284–MT Rating EC2, Patty-Piper Access Road Project, Implementation, To Grant Plum Creek Authorization to Occupy and Use Land in National Forest System, Flathead National Forest, Swan Lake Ranger District, Lake County, MT.

Summary: EPA expressed environmental concerns about potential effects to water quality, fisheries (including bull trout), and the threatened grizzly bear believes additional information is needed to fully assess and mitigate all potential impacts of the management actions.

Final EISs

ERP No. F–AFS–E65024–KY, Daniel Boone National Forest Off-Highway Vehicle (OHV) Management Policy, Modification, Several Counties, KY.

Summary: EPA's review found that the preferred alternative was acceptable and provided for off-road vehicle use, while protecting valuable forest resources and other form of recreation.

ERP No. F–AFS–J65250–CO, Routt National Forest Land and Resource Management Plan, Implementation, Grand, Routt, Rio Blanco, Jackson, Moffat and Garfield Counties, CO.

Summary: EPA continues to express concerns that range reform (RA–1995) analysis not included in the final EIS.

ERP No. F–AFS–J65278–CO, South Quartzite Timber Sale, Timber Harvesting and Road Construction, White River National Forest, Rifle Ranger District, Grizzly Creek Rare II Area, Garfield County, CO.

Summary: EPA expressed lack of objections.

ERP No. F–BLM–J67026–MT, Golden Sunlight Mine Expansion, Implementation of Amendment 008 to Operating Permit No. 0065, COE Section 404 Permit, Whitehall, Jefferson County MT.

Summary: EPA expressed environmental concerns regarding the change in plans to avoid requiring installation of trench drains and shallow wells to capture contaminated seepage from waste rock piles until water quality monitoring demonstrated ground water contamination. EPA also expressed concerns regarding the large proposed ground water mixing zone, and assuring financial capability for implementing necessary perpetual water management and treatment, environmental monitoring, mitigation, and reclamation measures and believes additional information is needed to fully assess and mitigate all potential impacts of the management actions.

ERP No. F–ICC–A53053–00, Conrail Acquisition (Finance Docket No. 33388) by CSX Corporation and CSX Transportation Inc., and Norfolk Southern Corporation and Norfolk Southern Railway Company (NS), Control and Operating Leases and Agreements, To serve portion of eastern United States.

Summary: EPA continued to express concerns with the analyses performed for noise and environmental justice, and addressed the applicability of the Clean Air Act general conformity rules.

Dated: July 14, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–19121 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5493–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements

Filed July 6, 1998 Through July 10, 1998

Pursuant to 40 CFR 1506.9.

EIS No. 980259, Draft Supplement, NOA, Comprehensive Amendment Addressing Essential Fish Habitat in Fishery Management Plans for the South Atlantic Region for Shrimp, Red Drum, Coral, Coral Reefs and Live/Hard Bottom Habitat, Spiny Lobster, Snapper-Grouper, Coastal Migratory Pelagics and Golden Crab, South Atlantic Region, *Due:* August 24, 1998. *Contact:* Andrew J. Kemmerer (813) 570–5301.

The NOA for the above DSEIS should have appeared in the 7/10/98 **Federal Register**. The 45-day Comment Period is Calculated from 7/10/98.

EIS No. 980260, Regulatory Draft EIS, NOA, Calico Scallop Fishery and Sargassum Habitat Fishery, Fishery Management Plans Establishment and Implementation, South Atlantic Region, *Due:* August 24, 1998. *Contact:* Andrew J. Kemmerer (813) 570–5305.

The above NOA should have appeared in the 7/10/98 **Federal Register**. The 45-day Comment Period is calculated from 07/10/98.

EIS No. 980261, Final EIS, AFS, MT, Beaver Creek Ecosystem Management Project and Associate Timber Sale, Implementation, Little and Big Beaver Creek Drainage, Kootenai National Forest, Cabinet Ranger District, Sanders County, MT, *Due:* August 17, 1998. *Contact:* John Gubel (406) 827–3533.

EIS No. 980262, Draft EIS, FHW, WA, WA–16/Union Avenue Vicinity to WA–302 Vicinity of Tacoma Improvements, Construction, Funding, Coast Guard Permit, COE Section 10 and 404 Permits, Pierce County, WA, *Due:* August 31, 1998. *Contact:* James Leonard (360) 753–9408.

EIS No. 980263, Final EIS, AFS, CO, Sheep Flats Diversity Unit, Timber Sales and Related Road Construction, Grand Mesa, Uncompahgre and Gunnison National Forests, Collbran Ranger District, Mesa County, CO, *Due:* August 17, 1998. *Contact:* Pam Bode (970) 641–0471.

EIS No. 980264, Draft EIS, NOA, FL, Guana, Tolomato, Matanizas, Site Designation, National Estuarine Research Reserve, Management Plan, City of Jacksonville, St. Johns and Flagler Counties, FL, *Due:* August 31, 1998. *Contact:* Stephanie Thornton (301) 713–3125.

EIS No. 980265, Draft EIS, AFS, VT, Mount Snow/Haystack Resort, Expansion of Snowmaking Coverage and Development of Alternative Water Supplies, Special-Use-Permit and COE Section 404 Permit, Green Mountain National Forest, Manchester Ranger District, Windham County, VT, *Due:* August 31, 1998. *Contact:* Nancy Burt (802) 747–6742.

EIS No. 980266, Draft EIS, UAF, NM, University of New Mexico (UNM), Construction of the Enchanted Skies Park and Observatory on Horace Mesa near Grants, Cibola County, NM, *Due:* August 31, 1998. *Contact:* Julia Cantrell (210) 536–3515.

EIS No. 980268, Draft Supplement, AFS, AZ, Grand Canyon/Tusayan Growth Area Improvements, Updated Information on three New Alternatives, General Management Plan (GMP), Special-Use-Permit, Land Exchange Options, Approval and Licenses Issuance, Coconino County, AZ, *Due:* September 02, 1998. *Contact:* R. Dennis Lund (520) 635–8200.

Dated: July 14, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–19120 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[PF–820; FRL–6019–1]

BASF Corporation; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by the docket control number PF–820, must be received on or before August 17, 1998.

ADDRESSES: By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Beth Edwards, Insecticide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 206, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5400; e-mail: edwards.beth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–820] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF–820) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 13, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the views of the petitioner. EPA is publishing the petition summary verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

BASF Corporation

PP 4E4411

EPA has received a pesticide petition (PP 4E4411) from BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.448 by establishing a tolerance for residues of hexythiazox [trans-5-(4-chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide] and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-

thiazolidine moiety (expressed as parts per million (ppm) of the parent compound), in or on the raw agricultural commodity dried hops. The proposed analytical method is gas chromatography using Nitrogen Phosphorous detection. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant and animal metabolism*. BASF Corporation notes that metabolism in plants and animals is understood.

2. *Analytical method*. The proposed analytical method involves methanol extraction, clean-up by partition, and detection of residues by gc with npd.

3. *Magnitude of residues*. Nine residue trials were conducted in Bavaria Germany. The method of detection had a limit of detection of 0.05 ppm. After kiln drying, hops residues ranged from 0.61 to 1.53 ppm and averaged approximately 0.9 ppm.

B. Toxicological Profile

1. *Acute toxicity*. For the technical grade active ingredient:

Acute oral toxicity—Rat. LD_{50} >5,000 milligram/killograms (mg/kg) (Tox Category IV); Acute Dermal Toxicity (rat) LD_{50} > 5,000 mg/kg (Tox Category III); Acute Inhalation Toxicity (rat) LC_{50} > 2.0 mg/l (4 hrs) (Tox Category IV); Primary Eye Irritation (rabbit) - Hexythiazox is a mild ocular irritant (Tox Category III); Primary Dermal irritation (rabbit) - Hexythiazox is not a dermal irritant (Tox Category IV); Dermal Sensitization (guinea pig) - Hexythiazox is not a dermal sensitizer.

2. *Genotoxicty*. All mutagenicity tests were negative. *Ames Testing*. Negative (Accession No. 072941). *In vitro* cytogenicity (Chinese hamster ovary cells): Negative (MRID 00156894). Rat primary hepatocyte unscheduled DNA synthesis assay (MRID 00156893). Mammalian cell forward gene mutation assay (MRID 00155154).

3. *Reproductive and developmental toxicity*—i. *Developmental toxicity—Rat*. The maternal toxicity NOEL was determined to be 240 mg/kg/day. The fetotoxicity NOEL was 240 mg/kg/day, and the compound was not embryotoxic at the highest dose tested (HDT), 2,160 mg/kg/day (MRID 00147578).

ii. *Developmental toxicity— Rabbit*. No development or maternal toxicity was observed at the HDT, 1,080 mg/kg/day (MRID 00146555).

iii. *Multi-generation reproduction—Rat*. The parental toxicity NOEL was determined to be 20 mg/kg/day. No reproductive effects were observed at 2,400 ppm (200 mg/kg/day), the HDT.

4. *Chronic toxicity*. The data submitted in support of this tolerance and other relevant material have been reviewed. The toxicological and metabolism data considered in support of this tolerance are discussed in detail in related documents published in the **Federal Registers** of April 26, 1989 (54 FR 17947), and February 21, 1996 (61 FR 6552) (FRL-5350-6) .

5. *Chronic toxicity non-rodent—Dog and rodent—Rat*. The NOEL for chronic effects for hexythiazox is 2.5 mg/kg/day, based upon a 1-year dog study, and the RfD is 0.025 mg/kg/day (MRID 00146556, 00151359, and 00156895). A 2-year rat study showed a systemic NOEL of 430 ppm (21.5 mg/kg/day, MRID 00146559). No evidence of oncogenicity was observed in this study.

6. *Oncogenicity in the rodent—Mouse*. Hexythiazox produced an oncogenic effect in the livers of female mice (MRID 00147577, 00156896, 40328701, and 40328702) with a systemic NOEL of 250 ppm (37.5 mg/kg/day). The Agency has calculated an oncogenic potential of Q* = 0.039 (mg/kg/day)-1.

7. *Hormonal effects*. No specific hormonal effects testing has been conducted with hexythiazox, however, the compound was tested in two developmental bioassays and a multi-generation reproduction bioassay. No hormonal effects were noted in these relevant tests.

8. *Threshold effects*. A chronic dietary exposure/risk assessment has been performed for hexythiazox using the established reference dose (RfD) of 0.025 mg/kg-bwt/day. The RfD was based on a NOEL of 2.5 mg/kg/day from a 1-year dog feeding study.

9. *Non-threshold effects*. The Agency has classified hexythiazox as a class C (possible human) carcinogen based on a significantly increased incidence of hepatocellular carcinomas (p=0.028), and adenomas/carcinomas combined (p=0.024) in female mice at the HDT (1,500 ppm) when compared to the controls as well as a significantly increased (p> 0.001) incidence of preneo-plastic hepatic nodules in both males and females at the HDT (1,500 ppm). The decision supporting a Category C classification (rather than a Category B) was based primarily on the fact that only one species was affected (mouse), mutagenicity assays did not support upgrading to a B classification, and structure-activity relationship of hexythiazox to other compounds supported a C classification. In classifying hexythiazox as a Category C carcinogen, the Agency concluded that a quantitative estimate of the carcinogenic potential for humans should be calculated because of the increased incidence of malignant liver tumors in the female mouse.

Thus, a Q* of 3.9×10^{-2} (mg/kg/day)-1 in human equivalents has been calculated. A full review of the data indicates that although hexythiazox is a carcinogen in mice, the risks would be extremely small from the proposed use on hops. Estimated dietary carcinogenic risk to the general population based on the highly conservative assumptions that all imported hops are treated with hexythiazox and would bear residues at the proposed tolerance level is estimated to be approximately 3×10^{-7}. In fact, the Agency estimated in 1993, that the most conservative estimate of the percentage of beer containing foreign grown hops (including imported beer and domestic beer brewed with imported hops) to be approximately 49%. In addition, the average residue seen in the residue studies supporting this tolerance was approximately 0.9 ppm. Incorporating this information into the risk calculation the estimated oncogenic risk from the proposed use is reduced to approximately 7×10^{-8}. Even this is an overestimation, as the calculations assume that the level of hexythiazox in finished beer is the same as the level in the dried hops. BASF has supplied information which demonstrates that finished beer brewed with hops containing an average level of 1.16 ppm results in hexythiazox levels of <0.05 ppm in the finished beer. Assuming a level of 0.05 ppm in beer produced from hops would further reduce the theoretical risk to approximately 4×10^{-9}.

A chronic dietary exposure/risk assessment has been performed for hexythiazox using a RfD of 0.025 mg/kg-bwt/day. The RfD was based on a NOEL of 2.5 mg/kg/day from a 1-year dog feeding study and a safety factor of 100. The endpoint effect of concern was hypertrophy of the adrenal cortex in both sexes, decreased red blood cell counts, hemoglobin content and hematocrit in males. The analysis was performed using tolerance level residues and 100% crop treated information. The exposure for established tolerances and the current proposal utilizes <1% of the RfD for the U.S.population.

C. Aggregate Exposure

1. *Dietary exposure*. The exposure for established tolerances and the current

proposal utilizes <1% of the RfD for the U.S. population. Non-nursing infants <l represent the most exposed sub-population and the percent of the RfD consumed by this group is <3%. BASF has estimated the theoretical oncogenic risk for the currently registered uses of hexythiazox (apples and pears) to be approximately 1.5 x 10^{-6}. This risk number includes the very conservative assumptions that all apples and pears are treated with hexythiazox and that all resulting residues are at the tolerance level. In its recent FR Notice establishing the tolerance in apples the Agency recognized these conservative overestimations and concluded ''in reality, the Agency knows that all apples would not be treated with this pesticide and expect that even apples receiving maximum treatment will have residues far below tolerance level. For example, in field trials conducted using application rates 10 times the label amount, residues in apples still did not exceed the tolerance level. Further, the maximum residue level (MRL) in apple juice would be expected to be less than 50% of the residue level in whole fruit. Based on an assessment of the cancer risks of the proposed use of hexythiazox, the Agency believes that the proposed use of hexythiazox on apples will pose an extremely small risk to humans.'' The current proposal will not increase the theoretical oncogenic risk significantly.

In addition, the Agency has concluded that based on the residue and feeding levels of spent hops ''meat and milk tolerances are not required for this petition.''

2. *''Other'' exposure*. Other potential sources of exposure of the general population to residues of pesticides are residues in drinking water and exposure from non-occupational sources. Since this tolerance is for an ''imported use,'' BASF does not anticipate exposure to residues of hexythiazox in drinking water. BASF has not estimated non-occupational exposure for hexythiazox. Since the current registrations for hexythiazox in the United States are limited to commercial apple/pear production, the potential for non-occupational exposure to the general population is considered to be insignificant.

D. Cumulative Effects

BASF also considered the potential for cumulative effects of hexythiazox and other substances that have a common mechanism of toxicity. BASF is unaware of any conclusive data regarding the potential for hexythiazox to share a common mechanism for toxic effects with any other compound. In dietary assessment, the food factor for hops is only 0.03%. Therefore, BASF concluded that any concern regarding a common mechanism of toxicity would be insignificant.

E. Safety Determination

1. *U.S. population*. Using the exposure assumptions described above, BASF concludes that aggregate exposure to hexythiazox will utilize approximately <1% of the RfD for the U.S. population. EPA generally has no concern for exposures below 100% of the RfD. In addition the calculated theoretical oncogenic risk associated with this use is more than 100 times less than the Agency's general level of concern (1 x 10^{-6}).

Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of hexythiazox, including all anticipated dietary exposure and all other non-occupational exposures.

2. *Infants and children*. The toxicity database includes both developmental and reproductive testing in which no significant concerns were identified. BASF therefore believes the established RfD of 0.025 mg/kg/day is the appropriate approach for assessing risk in children. Based on the completeness and reliability of the toxicity data and the conservative exposure assessment, BASF concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the residues of hexythiazox, including all anticipated dietary exposure and all other non-occupational exposures.

F. Other Considerations

The qualitative nature of the residues in plants and animals is adequately understood. There is a practical analytical method for detecting and measuring levels of hexythiazox in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances.

G. International Tolerances

A maximum residue level has not been established for hexythiazox by the Codex Alimentarius Commission.

[FR Doc. 98–19247 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6126–2]

Report on the Shrimp Virus Peer Review Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of a draft final report.

SUMMARY: This document announces the availability of a draft final report of a peer review and risk assessment workshop, sponsored by the U.S. Environmental Protection Agency (EPA), National Center for Environmental Assessment, on behalf of the Joint Subcommittee on Aquaculture (JSA), National Science and Technology Council, held January 7–8, 1998. The report entitled, ''Report on the Shrimp Virus Peer Review and Risk Assessment Workshop: Developing a Qualitative Risk Assessment'' (EPA/630/R–98/001A), was completed under contract to the EPA. It develops a qualitative ecological risk assessment describing the potential risks of nonindigenous pathogenic shrimp viruses on wild shrimp populations in U.S. coastal waters. Expert conclusions and recommendations contained in the report are currently undergoing an independent scientific review. The results of this independent review and the draft final report will be used as the basis for a risk management workshop on shrimp viruses scheduled for July 28–29, 1998 in New Orleans (see 63 FR 36895–36896 (July 8, 1998)).

DATES: The report will be available on or about July 24, 1998.

ADDRESSES: An electronic version of the draft final report will be accessible on the EPA National Center for Environmental Assessment home page at http://www.epa.gov/ncea/.

FOR FURTHER INFORMATION CONTACT: Dr. H. Kay Austin, U.S. Environmental Protection Agency, Office of Research and Development, National Center for Environmental Assessment (8601D), 401 M Street, SW, Washington, DC 20460; telephone (202) 564–3328; fax: (202) 565–0066; e-mail *austin.kay@epa.gov*. For technical assistance contact Dr. Tom McIlwain, Chairperson of the JSA Shrimp Virus Work Group, National Marine Fisheries Service, 3209 Frederick Street, Pascagoula, MS 39567, (601) 762–4591.

SUPPLEMENTARY INFORMATION: Public concerns over the potential introduction and spread of nonindigenous pathogenic shrimp viruses to the wild shrimp fishery and shrimp aquaculture

industry in U.S. coastal waters are increasing. Although these viruses pose no threat to human health, outbreaks on U.S. shrimp farms, the appearance of diseased shrimp in U.S. commerce, and new information on the susceptibility of shrimp and other crustaceans to these viruses prompted calls for action. In response, the JSA (representing Federal organizations including the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (DOC/NOAA/NMFS); the U.S. Department of Agriculture, Cooperative State Research, Education and Extension Service (DOA/CREES); Animal Plant Health Inspection Service (DOA/APHIS); and Agricultural Research Service (DOA/ARS); U.S. Department of Energy; U.S. Department of Defense; Army Corp of Engineers (DOD/ACE); U.S. Department of Health and Human Services, Food and Drug Administration (HHS/FDA); Tennessee Valley Authority (TVA); the EPA; and the U.S. Fish and Wildlife Service (FWS)) tasked the Federal interagency Shrimp Virus Workgroup (DOC/NMFS, EPA, FWS, and USDA/APHIS) with assessing the shrimp virus problem.

Publication of this draft final report is another in a series of related activities sponsored by EPA, in cooperation with DOC/NMFS, USDA/APHIS, and FWS, on behalf of the JSA. In June 1997, the Shrimp Virus Workgroup summarized the available information on shrimp viruses in a report to the JSA entitled, ''An Evaluation of Potential Shrimp Virus Impacts on Cultured Shrimp and on Wild Shrimp Populations in the Gulf of Mexico and Southeastern U.S. Atlantic Coastal Water'' (JSA Shrimp Virus Report (JSVR)). The JSVR was reviewed at four stakeholder meetings (see 62 FR 31790–31791 (June 11, 1997)), jointly sponsored by EPA, DOC/NMFS, and USDA/APHIS on behalf of the JSA, during July 1997. Previous products of these efforts include the JSVR (see http://kingfish.ssp.nmfs.gov/oit/oit.html) and the Minutes of the Stakeholder Meetings Report (EPA/630/R–92/001) (see http://www.epa.gov/ncea/pdfs/shrimp5.pdf). These products and additional stakeholder (public) comments formed the basis for the shrimp virus peer review and risk assessment workshop. The workshop participants considered potential pathways to wild shrimp populations including shrimp aquaculture, shrimp processing and ''other'' sources and pathways, and independently assessed risks using a qualitative risk assessment approach developed by the Aquatic Nuisance Species Task Force.

The workshop report concludes that viruses could survive in pathways leading to coastal environments, and that there is potential for viruses to affect native shrimp in localized areas, such as an estuary or bay. However, it concludes that local populations of shrimp would recover rapidly as a result of reintroduction of shrimp or increases in reproduction. Although there was high uncertainty, the report concludes that the risks from viral introductions to the entire population of native shrimp in U.S. coastal waters is relatively low. Though limited by the time and information available, the report determines that impacts to organisms besides shrimp deserved further consideration.

Finally, while qualitative evaluations are valuable, the report concludes that they are associated with a great deal of uncertainty. Therefore, given the limited information currently available, it is not feasible to conduct a more comprehensive, quantitative assessment of the risks associated with nonindigenous pathogenic shrimp viruses at this time. Participants noted that there is a need to conduct further systematic research efforts to reduce uncertainty.

The workshop report, and the results of the independent scientific review of its conclusions and recommendations, will be used as the basis for a risk management workshop on shrimp viruses scheduled for July 28–29, 1998, in New Orleans. This workshop, jointly sponsored by the EPA Gulf of Mexico Program, DOC/NMFS, and DOA/CREES/ARS, will develop options and strategies for managing the threat of shrimp viruses to cultured and wild stocks of shrimp in the Gulf of Mexico and southeastern U.S. Atlantic coastal waters. Persons interested in attending the upcoming risk management workshop should contact William D. Holland, Gulf of Mexico Program Office, Building 1103, Room 202, Stennis Space Center, MS 39529–6000; telephone: (228) 688–3726; fax: (228) 688–2709; e-mail:holland.bill@epa.gov.

Dated: July 10, 1998.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 98–19248 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–MS; FRL–5799–4]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Mississippi's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On March 12, 1998, the State of Mississippi submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Mississippi's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before August 31, 1998. Public hearing requests must be received on or before August 3, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number ''PB–402404–MS'' (in duplicate) to: Environmental Protection Agency, Region IV, Air, Pesticides and Toxics Management Division, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303–3104.

Comments, data, and requests for a public hearing may also be submitted electronically to: rudd.roseanne@epa.epamail.gov. Follow the instructions under Unit V. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Rose Anne Rudd, Regional Lead Coordinator, Air, Pesticides and Toxics Management Division, Environmental Protection Agency, Region IV, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303–3104, telephone: (404) 562–8998, e-mail address: rudd.roseanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102–550, became law. Title X of that statute was the Residential Lead-

Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled ''Lead Exposure Reduction.''

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges, and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745, and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether Mississippi's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of Mississippi's proposed program has been provided by the applicant:

The State of Mississippi, through the Mississippi Department of Environmental Quality (MDEQ), is seeking authorization from EPA to administer and enforce its own lead-based paint activities program. Regulations setting out the procedures and requirements for these activities were adopted by the Commission on Environmental Quality on January 22, 1998. Requirements under the regulations will be applicable beginning August 31, 1998. The authority to administer and enforce a State program was provided for in the ''Lead-Based Paint Activity Accreditation and Certification Act'' passed by the Mississippi Legislature during the 1997 regular session.

The State lead-based paint program regulations are applicable to persons engaged in lead-based paint activities in target housing and child-occupied facilities. The State certification program requirements include the certification of firms, inspectors, risk assessors, supervisors, project designers, and workers. Each certification discipline must meet required academic and/or experience requirements of the State program regulations. Individuals must successfully pass the third party exam applicable to the certification discipline in order to be certified. The State program sets forth work practice standards for persons performing lead-based paint activities. The State program requires the filing of a project notification, in writing, prior to the commencement of any lead-based paint abatement activity.

All initial and refresher lead-based paint activities training programs must be accredited. The State program requires training programs to notify the State prior to conducting a training course. Full approval of a training program's lead-based paint activities course is contingent on a satisfactory on-site course audit.

The State program provides for the suspension, revocation, or modification of training program accreditation and certifications of individuals and firms.

The State lead program also conducts outreach and compliance assistance activities. The objective of the activities is to educate the public and regulated community of the hazards of lead-based paint. The activities also inform the public and regulated community of the regulatory requirements applicable to lead-based paint activities.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Applicability of Regulatory Assessment Requirements

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 (''Regulatory Planning and Review,'' 58 FR 51735, October 4, 1993), and Executive Order 13045 (''Protection of Children from Environmental Health Risks and Safety Risks,'' 62 FR 1985, April 23, 1997), do not apply to this action. In addition, this action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538) or Executive Order 12875 (''Enhancing the Intergovernmental Partnership,'' 58 FR 58093, October 28, 1993). Finally, this action does not contain any information collection requirements and therefore does not require review or approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

V. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number ''PB–402404–MS.'' Copies of this notice, the State of Mississippi's authorization application, and all comments received on the application are available for inspection in the Region IV office, from 8 a.m. to 4:45 p.m., Monday through Friday, excluding legal holidays. The docket is located at the EPA Region IV Library, Environmental Protection Agency, Atlanta Federal Center, 9th Floor, 61 Forsyth St., SW., Atlanta, GA.

Commenters are encouraged to structure their comments so as not to contain information for which Confidential Business Information (CBI) claims would be made. However, any information claimed as CBI must be marked ''confidential,'' ''CBI,'' or with some other appropriate designation, and a commenter submitting such information must also prepare a

nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

Electronic comments can be sent directly to EPA at:

rudd.roseanne@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''PB–402404–MS.'' Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: July 8, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 98–19139 Filed 7–16–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

FCC Renews EAS National Advisory Committee Charter

July 10, 1998.

In accordance with GSA Final Rule on Federal advisory committee management, 41 CFR 101–6.1015, the Federal Communications Commission (FCC) is giving official notice of the renewal of the Emergency Alert System National Advisory Committee (NAC). The term of this advisory committee runs from July 25, 1998 to July 25, 2000.

The Committee advises the FCC on all matters concerning the Emergency Alert System (EAS) and its implementation including, but not limited to, emergency alerting policies, technologies, plans, regulations, and procedures at the national, state and local levels. The Committee also recommends and develops training and education regarding the EAS and coordinates with state and local officials to assist in establishing and maintaining effective emergency alerting programs. The Committee, in general, interfaces, coordinates, and exchanges information with the public, industry, and various levels of government concerning the EAS.

For additional information, contact Bonnie Gay at (202) 418–1228.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–19032 Filed 7–16–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 98–1369]

International Traffic Data Reporting Requirements

All common carriers that provided international telecommunications services in 1997 must file a report of their international traffic data for calendar year 1997 by July 31, 1998. The detailed filing requirements are contained in the ''Manual for Filing Section 43.61 Data'' (Manual). This Public Notice provides first a brief overview of the Section 43.61 annual filing requirement. Second, it establishes additional billing codes that ''facilities-based'' and ''facilities-resale'' (described below) carriers should use to report U.S. and foreign billed traffic that was settled under an ''alternative settlement arrangement'' for which the carrier received Commission approval under § 64.1002 of the rules, 47 CFR 64.1002. It also makes a conforming change to the billing code for ''pure resale'' services. Third, this notice provides guidance to carriers with respect to reporting: (1) Switched traffic routed over international private lines; (2) ''country direct'' and ''country beyond'' services; and (3) ''reorigination'' services (foreign-billed services which a U.S.-authorized carrier ''reoriginated'' through the United States). Attached to this Public Notice is a revised table of billing codes for facilities-based and facilities-resale services. This table sets forth the new billing codes for facilities-based and facilities-resale services in a form that is intended to clarify the reporting of data for these services. Carriers that anticipate problems in filing their 1997 data in accordance with the guidelines and billing codes contained in this notice should obtain a waiver prior to July 31.

Overview

All common carriers that billed for international service in 1997, including pre-paid calling card and international call-back service providers, must file § 43.61 international traffic data by July 31, 1998. Some carriers do not resell international services, but do include on their bills to customers international service charges clearly identified as the charges of other carriers. Such carriers are not required to file § 43.61 international traffic data.

The § 43.61 filing requirements depend on both the type of service provided and how carriers provide the service. The simplest filing requirements are for ''pure resale'' services. Carriers provide ''pure resale'' services by reselling the international switched services of other U.S.-authorized carriers. The Manual contains simplified filing requirements for such ''pure resale'' services. For example, carriers report their pure resale services on a world total (rather than a country specific) basis, and they may file their data on paper only (rather than also filing on diskette).

Carriers that provided international services over international circuits that they own or lease must provide significantly more information for these services than they provide for ''pure resale'' services. Carriers file annual data on a country-by-country basis for their facilities-based and facilities-resale services and must include information on international settlement payments and receipts. The Manual defines ''facilities-based'' service as a service provided using channels of communication which the carrier owns; or in which the carrier has an ownership interest, such as an indefeasible right of use (IRU); or which the carrier leases from an entity that is not required to report those circuits in its own § 43.61 reports. The Manual defines ''facilities-resale'' service as a service provided over non-switched international circuits leased from other reporting international carriers. In other contexts, the Commission refers to this method of providing international service as ''private line resale.'' The routing of switched traffic over private lines between the United States and a foreign country has also been referred to as ''International Simple Resale (ISR).'' The rules governing the provision of ISR are set forth in § 63.21(a), 47 CFR 63.21(a), as amended in *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, Market Entry and Regulation of Foreign-Affiliated Entities,* IB Docket Nos. 97–142, 95–22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997) (62 FR 64741, December 9, 1997), *recon. pending.*

Reporting of Traffic Settled Under an Alternative Settlement Arrangement

The Commission requires that U.S.-authorized carriers include in their annual § 43.61 traffic reports their U.S. and foreign billed traffic that was settled under an ''alternative'' or ''flexible'' settlement arrangement for which the carrier received Commission approval under § 64.1002 of the rules, 47 CFR 64.1002. *See Regulation of International Accounting Rates,* CC Docket No. 90–337, Phase II, Fourth Report and Order, 11 FCC Rcd 20063 (1996) (62 FR 5535, February 6, 1997), *recon. pending,* at ¶ 61. The attached table of billing codes includes a column headed ''Alternative Settlement Arrangements'' that sets forth new billing codes, 21 and 22 (public) and 24, 25, and 26 (proprietary), for use by carriers in reporting this traffic.

Billing Code for Reporting of Pure Resale

As explained above, the Manual permits pure resale carriers to file their data on paper only, rather than also filing on diskette. The Manual specifies billing code 21, however, for those carriers that choose to report their pure resale traffic on diskette. Pure resale carriers filing their 1997 data on diskette should use billing code 31, rather than billing code 21. The attached table of billing codes for 1997 specifies billing code 21 for the reporting of traffic that is settled under an alternative settlement arrangement.

Reporting of Switched Traffic Routed Over Private Lines

Carriers that provided international switched or private line services over resold private lines report such traffic using the billing codes specified in the Manual for ''facilities-resale'' service (*i.e.,* billing codes 11 and 12 (public) and 14 (proprietary)). Additionally, the Commission has clarified that carriers that provide international switched services over their facilities-based private lines must report such traffic using the billing codes specified in the Manual for facilities-resale service. *See International Settlement Rates,* IB Docket No. 96–261, Report and Order, 12 FCC Rcd 19806 (1997) (62 FR 45758, August 29, 1997), *recon. pending, appeal filed, Cable & Wireless et al.* v. *FCC,* No. 97–1612 (D.C. Cir. filed Sept. 26, 1997), at ¶ 252 (clarifying that carriers routing non-settled switched traffic over their private line facilities should report that traffic as switched facilities-resale service). The attached table of billing codes for facilities-based and facilities-resale services includes billing codes 11 and 12 (public) and 14 (proprietary) under a column that is headed ''International Simple Resale and Hubbed Traffic.'' This heading is intended to highlight that these billing codes should be used by carriers to report switched traffic that they routed over facilities-based or resold private lines on an unsettled basis between the United States and the country at the foreign end of the private line or between the United States and a point beyond that country via ''switched hubbing.'' *See* 47 CFR 63.17 (switched hubbing rule). Like carriers using traditional settlement arrangements, carriers routing switched traffic over private lines are required to report their U.S. and foreign billed traffic by country of termination or origination. *See Market Entry and Regulation of Foreign-Affiliated Entities,* IB Docket No. 95–22, Report and Order, 11 FCC Rcd 3873 (1995) (60 FR 67332, December 29, 1995) (subsequent history omitted) at ¶ 170.

Country Direct and Country Beyond Services

Some international calls are initiated in foreign points by customers using ''country direct'' and ''country beyond'' services of a U.S. carrier. These calls may terminate in the United States or in other foreign points. Where such calls terminate in the United States (*i.e.,* a ''country direct'' service), the reporting carrier should report the message counts and minutes, the billed revenue, and the settlement payments for the country in which the calls originate. Where these calls terminate in other international points (*i.e.,* a ''country beyond'' service), the carrier should report separately the originating and terminating legs of the calls. Thus, approximately two minutes will be reported for each conversation minute for ''country beyond'' service that both originates and terminates in foreign points. Carriers should report the billed revenue for country beyond service for the country in which the calls originate. Settlements for these calls, however, should be reported separately for each leg of these calls. Where traffic is exchanged on the originating and terminating legs using different settlement or facilities arrangements, the traffic on each leg should be reported using the appropriate billing code.

Reorigination Services

U.S.-authorized carriers that ''reoriginate'' traffic for foreign carriers may request a waiver of the Manual requirement to report reorigination traffic using the billing codes set forth in the attached table of billing codes (rather than using billing code 3 for transit traffic). Pursuant to this waiver, the carrier would include the terminating leg of its reorigination traffic in billing codes 1, 11, and 21 (public). The U.S. carrier typically will owe and report settlements only on the terminating leg of reorigination traffic. Total receipts from the foreign carrier for these calls would be reported for the terminating leg of the call. In the proprietary version of the data, the carrier would separate out its reorigination traffic from other traffic reported under billing codes 1, 11, and 21. Both the originating and terminating legs of reoriginated calls would be reported in the proprietary version of the data. For the originating legs, the carrier would report messages and minutes only. These files would be reported using separate proprietary billing codes for the terminating leg (billing codes 5, 15, and 25) and originating leg (6, 16, and 26) of the calls.

The Manual for Filing Section 43.61 Data is available in the reference room maintained by the Common Carrier Bureau at 2000 M Street, N.W., Room 575. Copies of the Manual can be purchased by calling International Transcription Service, Inc. (ITS) at (202) 857–3800. The Manual can be downloaded [file name MANUAL95.ZIP] from the FCC-State Link internet site (http://www.fcc.gov/ccb/stats) on the World Wide Web.

For additional information, contact Linda Blake or Jim Lande of the Common Carrier Bureau's Industry Analysis Division, (202) 418–0940, or Susan O'Connell of the International Bureau's Telecommunications Division, (202) 418–1470.

Federal Communications Commission.

George Li,

Deputy Chief (Operations), Telecommunications Division, International Bureau.

BILLING CODE 6712–01–P

Table of Billing Codes
Billing Codes for Facilities-based and Facilities-Resale Services *

Switched Services	Traditional Settlement & Proportionate Return		International Simple Resale and Hubbed Traffic		Alternative Settlement Arrangements	
	public	proprietary	public	proprietary	public	proprietary
Service Originates from the U.S. point served						
Billed by U.S. Carrier						
Settled with (or settlement-like payment to) carrier in destination point; or exchanged with an affiliate in destination point						
Private line routing: traffic routed over private lines directly to country of termination	n.a.	n.a.	11	11	n.a.	n.a.
Direct routing, traditional/alternative settlement: carried over U.S. carrier half circuits to destination point (including circuits that are hard patched through an international point)	1	1	n.a.	n.a.	21	21
Indirect routing: switched transit through another international point. (U.S. carrier owes settlement to carrier in destination market and transit fee to intermediate carrier.)	1	1	n.a.	n.a.	21	21
Hubbed by a carrier in another international point **	n.a.	n.a.	11	11	n.a.	n.a.
Billed by Foreign Carrier						
Collect Call	2	2	12	12	22	22
Subscriber toll free (800, 888, etc)	2	2	12	12	22	22
Calling card or other billing arrangement	2	2	12	12	22	22
Service Originates from international point						
And terminates in the U.S. point served						
Billed by Foreign Carrier	2	2	12	12	22	22
Billed by U.S. Carrier						
Collect Call	1	1	11	11	21	21
Subscriber toll free (800, 888, etc)	1	1	11	11	21	21
Calling card or other billing arrangement (Country Beyond or Country Direct)	1	4	11	14	21	24
And transits the U.S. point served						
Billed by Foreign Carrier						
Foreign carrier settles with country of 'termination directly or through cascade arrangement	3	3	n.a.	n.a.	n.a.	n.a.
Reoriginated by U.S. Carrier and treated as U.S. carrier traffic for settlement purposes						
terminating leg	1	5	11	15	21	25
originating leg	exclude	6	exclude	16	exclude	26
Billed by U.S. Carrier:						
Calling card or other billing arrangement	1	4	11	14	21	24

Private Line Services	Facilities-based		Facilities-resale	
	public	proprietary	public	proprietary
All circuits from U.S. point to theoretical midpoint of circuit	1	1	11	11

* Facilities-based services are provided using international transmission facilities owned in whole or in part by the carrier providing service. Facilities-resale services are provided by a carrier using non-switched international circuits leased from other reporting carriers. These are distinct from Pure Resale services, which are switched services that are provided by reselling the international switched services of other carriers.

** The US carrier does not make a settlement or settlement like payment directly to the carrier in the country of termination. The US carrier reports as settlement payments for the country of termination any amounts owed to the carrier(s) in the intermediate point. This amount should include any amounts paid by affiliates to the terminating carrier associated with this traffic.

[FR Doc. 98–19085 Filed 7–16–98; 8:45 am]
BILLING CODE 6712–01–C

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Zaky Transportation Services, Inc., 8610 N.W. 70 Street, Miami, FL 33166, *Officers:* Isaac Wahnich, C.E.O., Robert Wahnich, Director

International Globtrade, Inc. d/b/a/ JAB Forwarding; Legacy Shipping, 36 S. Wabash Avenue, Suite #602, Chicago, IL 60603, *Officers:* Spiro Jankovich, President, Frederick W. Ampt, Vice President

Southeast Logistics International, Inc., 122 Agape Street, Williamson, GA 30292, *Officers:* Patricia G. Owen, C.E.O., Larry Owens, Chief Financial Officer.

Dated; July 13, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–19048 Filed 7–16–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 31, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Blythe A. Friedley, New Washington, Ohio; Debra K. Hickenlooper, Apollo Beach, Florida; Scott McDougal, New Washington, Ohio; Keith McDougal, Cincinnati, Ohio; Todd McDougal, New Washington, Ohio; Blythe A. Friedley, New Washington, Ohio, as trustee of The Rolland W. Friedley Trust; Blythe A. Friedley, New Washington, Ohio, as trustee of The Arlene M. Friedley Trust; Douglas and Marjorie MacGillivary, Bellefontaine, Ohio; Mathew and Kathryn Yackshaw, North Canton, Ohio; Douglas and Amy Boy, Bellefontaine, Ohio; Timothy and Kristine Shannon, Boardman, Ohio; John and Linda Stoner, Bellefontaine, Ohio; Karen Young, Bellefontaine, Ohio; and Sandra McDonald, Bellefontaine, Ohio; all to acquire voting shares of Union Bancorp., Inc., West Mansfield, Ohio, and thereby indirectly acquire Union Banking Company, West Mansfield, Ohio.

2. Charles Boyd Brown III, Pittsburgh, Pennsylvania; Hilda Loresch Brown, Pittsburgh, Pennsylvania; Marilyn Justice Brown, Newton, Massachusettes; and Katherine Turner Adair, Hobe Sound, Florida; all to acquire voting shares of Allegheny Valley Bancorp, Pittsburgh, Pennsylvania, and thereby indirectly acquire voting shares of Allegheny Valley Bank of Pennsylvania, Pittsburgh, Pennsylvania.

Board of Governors of the Federal Reserve System, July 13, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19036 Filed 7–16–98; 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 August 10, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Killbuck Bancshares, Inc., Killbuck, Ohio; to acquire Commercial and Savings Bank, Danville, Ohio.

Board of Governors of the Federal Reserve System, July 13, 1988.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19037 Filed 7–16–98; 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 August 13, 1998.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Prosperity Bancshares, Inc., El Campo, Texas; to acquire 100 percent of the voting shares of Union State Bank, East Bernard, Texas.

2. Texas Capital Bancshares, Inc., Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Resource Bank, N.A., Dallas, Texas. Comments regarding this application must be received not later than August 12, 1998.

Board of Governors of the Federal Reserve System, July 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19131 Filed 7–16–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 3, 1998.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Wilmington Trust Corporation, Wilmington, Delaware; to acquire WT Investments, Inc., Wilmington, Delaware, and thereby engage in investment advisory activities, pursuant to § 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, July 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19132 Filed 7–16–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, July 22, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding building projects at a Federal Reserve Bank and Branch.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board, 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 15, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19211 Filed 7–15–98; 10:33 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Federal Supply Service; Move Management Services (MMS) and the General Services Administration's (GSA's) Centralized Household Goods Traffic Management Program (CHAMP)

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of proposed program changes for comment.

SUMMARY: This notice announces GSA's plan to continue providing MMS under the Household Goods Tender of Service (HTOS) until October 31, 1999, with the expectation of adding MMS to the Governmentwide Employee Relocation Services Schedule as a separate service during the next open season scheduled for Spring 1999. Under this plan GSA will continue to be able to meet customer needs while transitioning MMS to a FAR contract procurement method. This notice supersedes two previous **Federal Register** notices published for comment on this subject (62 FR 64225, December 4, 1997, and 63 FR 30496, June 4, 1998).

DATES: Please submit your comments by September 15, 1998.

ADDRESSES: Mail comments to the Travel and Transportation Management Division (FBT), General Services Administration, Washington, DC 20406, Attn: **Federal Register** Notice. GSA will consider your comments prior to implementing this proposal.

FOR FURTHER INFORMATION CONTACT: Larry Tucker, Senior Program Expert, Travel and Transportation Management Division, FSS/GSA, 703–305–5745.

SUPPLEMENTARY INFORMATION: GSA has been exploring for almost a year alternative procurement strategies for providing MMS to Federal agencies, two of which were published in the **Federal Register** for comment (see references under **SUMMARY** paragraph above). It was our hope to offer GSA customers access to a full spectrum of MMS through an alternative approach by expiration of the current household goods rates on October 31, 1998.

While exploring alternatives, we have continued to meet with customer agencies and household goods industry representatives. Dialogue from these meetings, coupled with reaction to the two previous **Federal Register** notices, have led us to conclude that the Governmentwide Employee Relocation Services Schedule offers a viable long-term strategy for providing MMS to agencies. We can fully transition to providing MMS as a separate service under the schedule during the next

open season scheduled for Spring 1999. In the interim, we plan to incorporate MMS in the current schedule as an add-on or ''enhanced service'' as announced previously in the **Federal Register**. To use the add-on (i.e., ''enhanced service''), however, a customer agency would be required to purchase MMS as part of a total relocation services package, and would be limited to the three vendors now on schedule. While such an approach would meet the needs of a small number of Federal activities that buy the entire package of relocation services (real estate services, mortgage assistance, etc.) customers interested in acquiring only MMS would not have access to the services.

After having carefully weighed all the issues, we have concluded that for the immediate future we can best satisfy customer needs and meet industry concerns by continuing to provide MMS through the HTOS until October 31, 1999, with the clear expectation of adding MMS to the Governmentwide Employee Relocation Services Schedule as a separate service during the next open season scheduled for Spring 1999.

Under this plan, agencies that currently produce MMS under the HTOS will enjoy uninterrupted service, and agencies that wish to procure a more comprehensive package of relocation services, including MMS, will be able to do so in the very near future under the schedule. Carrier and non-schedule-broker MMS providers will be able to continue offering service under the HTOS until the next open season when they will have opportunity to compete and transition to the schedule. The broker MMS providers currently on schedule also will be able to continue offering service under the HTOS until the open season when MMS will become a separate procurement item on the schedule.

As stated in the **SUMMARY** paragraph above, this inclusive approach will allow GSA to continue meeting customer needs and address concerns raised by interested industry representatives while we transition MMS to a FAR contract procurement method.

In anticipation of favorable reaction to this inclusive plan and in an effort to keep the household goods program on target, we plan to immediately proceed with issuance of an RFO allowing both general transportation and MMS providers to file new rates for November 1, 1998, implementation (or as soon thereafter as realistically possible). Under the described plan, the new rates would be effective until October 31, 1999.

Dated: July 13, 1998.

Janice Sandwen,

Director, Travel and Transportation Management Division.

[FR Doc. 98–19107 Filed 7–16–98; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 98103]

Cooperative Agreement To Study Consumer Demand for Food Safety; Notice of Availability of Funds for Fiscal Year 1998

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement to study consumer demand for food safety. This announcement is related to the ''Healthy People 2000'' priority area of Food and Drug Safety.

The purpose of the program is to contribute to the education of the U.S. public with respect to the risk of foodborne illness and to available public and private efforts to reduce that risk, and evaluate the methods used in economic evaluation of interventions designed to improve food safety. There are five objectives to the program. The recipient will address the first two objectives in combination with any or all of the other three objectives.

The first objective of the study is to develop a program designed to educate a nationally representative sample of consumers about the risks of food borne pathogen consumption at home and retail establishments, and various collective and private means of reducing these risks. As part of the educational program, consumers will be questioned about their own food safety practices and their perceptions of the effectiveness of those practices. They will be informed of food industry measures that are intended to maintain the safety of the food supply and of safety measures they can implement at home in food storage, preparation, and consumption.

The second objective is to obtain an empirical estimate of the value consumers place on reducing the risk associated with a specific food borne illness for which interventions already exist.

The third and fourth objectives are designed to address the development, refinement, and evaluation of the elicitation methods used in this type of evaluation. For example, it is not well understood how sensitive consumers are to small changes in the probability of rare health-related events and how they process probability information when forming their values of reduced risk of adverse health outcomes. Therefore, the third objective is to model the process by which consumers assess such changes in probability and risk, and how they use that assessment in forming values. The validity of the model will also be evaluated.

The fourth objective is to test whether the presentation of distinct pathogen-specific and symptom-specific scenarios result in different consumer valuations. In conducting economic evaluations of health programs, it is important to be certain about what is being valued: Do consumers value reduction of risk associated with a specific pathogen or do they value reduction of the risk of experiencing the symptoms of food borne pathogens in general. Specifically, are consumers concerned about the cause of the illness, or just whether they contract the illness?

The fifth objective is to examine how alternative combinations of private and collective risk reduction strategies affect consumer valuation of safer food. Consumers already have a certain amount of control over the risk of food borne illness. There are many strategies that can be used in preparation either in the home or at a food service establishment. In addition, there are producer and processor strategies that can improve the safety of food before it arrives at the final consumer.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit and State and local governments or their bona fide agents.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $150,000 is available in FY 98 to fund one award. It is expected that the award will begin on or about September 30, 1998, and will be made for a 12-month budget period within a project period of up to 5 years. Budgets for periods 2–5 should be submitted at a level of $200,000 per

year. Funding estimates are subject to change.

Continuation awards during the approved project period are subject to the availability of funding and performance as evidenced by required progress reports.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities under 2. (CDC Activities).

1. Recipient Activities

a. Develop research plan and implement a procedure to collect data for a nationally representative sample of consumers regarding food safety practices and valuation of reduced risk of food borne illness.

b. Provide food safety education to the sample of interviewed consumers.

c. Develop, estimate, and evaluate an economic model of consumer valuation of reduced risk of food borne illness using the sample data.

d. Develop, implement, and evaluate a model of how consumers process risk reduction information when forming values and incorporate that model in the estimation of consumer valuation of reduced risk of food borne illness.

e. Develop, implement, and evaluate a means of testing the effect of illness presentation, whether pathogen- or symptom-specific, on consumer valuation of reduced risk of food borne illness.

f. Develop, implement, and evaluate a means of testing the effect of alternative combinations of private and collective risk reduction strategies on consumer valuation of reduced risk of food borne illness.

g. Evaluate and analyze data.

h. Disseminate findings to peer-reviewed publications and public information sources.

2. CDC Activities

a. Provide technical and subject-matter assistance in study design, data collection, modeling, consumer education, and data evaluation and analysis activities.

b. Assist in dissemination of findings.

c. Provide up-to-date scientific information and activities of other projects in the area.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 30 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

1. Executive Summary

Provide a clear, concise written summary of the following: (a) Statement of need; (b) major goals, objectives, and activities of the proposed project; (c) operational plan; (d) capability of applicant; and (e) estimated cost of the project including the requested amount.

2. Table of Contents

3. Statement of Need

Describe the role of the project in providing food safety education to consumers and valuing food safety improvement, including information on the chosen intervention and the risk of and health and economic consequences of the associated pathogen.

4. Goals and Objectives

Establish and submit short term (1 year) and long term (5 year) objectives for the project phases included in the application. Objectives must be specific, measurable, time-phased, and feasible.

5. Operational Plan

a. Submit a plan to develop the project from presenting educational food safety information to assessing attributes to be included in studies and the valuation methods and design of the data collection process.

b. Submit a time schedule for all activities to be carried out in the first year including the responsible staff for each phase of the project. Describe further activities if additional funding becomes available in future years.

c. Describe procedures to disseminate the research findings through presentation and publication in appropriate form and provide necessary reports as required by the notice of award.

6. Capability

a. Identify and describe the project staff, their qualifications and experience in the areas of economic valuation of nonmarketed goods/services and food safety and their degree of availability under a resultant agreement, and association with the applicant. Include the curriculum vitae for the key project staff in the supporting materials of the appendix.

b. Identify and describe the capacity to collect nationally representative consumer data and to provide educational food safety information as a major component of the data collection process. Provide written commitments from appropriate public/private organizations expected to support activities of the project.

7. Project Evaluation

Submit a plan to evaluate the project that assesses the extent to which:

a. The research was designed for addressing the delivery of consumer food safety information and the specific food safety problem.

b. Survey and results were validated and pretested.

c. Data were disseminated through periodic reports, presentations, and publication.

8. Budget

9. Supporting Materials

F. Submission and Deadline

The original and 2 copies of the application PHS Form 5161–1 (revised 5/96) must be submitted to David Elswick, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, on or before August 21, 1998.

Deadlines: Applications shall be considered as meeting the deadline above if they are either: (1) Received on or before the deadline date; or (2) sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

G. Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

1. Problem Identification (5 Percent)

a. Evidence of the importance of the problem.

b. Evidence of the effectiveness of the proposed food safety intervention to be evaluated.

2. Research Design (25 Percent)

Evidence that the research design is appropriate for the project.

3. Capability (30 Percent)

a. Evidence that key project staff and/or organization possesses recent experience in economic evaluation. More specifically, the extent to which the principal investigator has the appropriate educational background for

implementation of this project. For example, a doctoral degree in economics or behavioral science with experience in the design and implementation of large-scale data collection processes and valuation of nonmarketed goods and services.

b. Evidence of organizational capacity for large-scale data collection.

c. Evidence of ability to cooperate in interorganizational and interdisciplinary settings.

4. Strategic Plan (25 Percent)

a. The objectives of the project are appropriate, feasible, and time-appropriate for the project.

b. The extent to which the multiple objectives of the project can be accomplished within the first year and how further objectives can be met in subsequent years.

5. Program Evaluation (10 Percent)

a. The extent to which the applicant proposes a strategy of ongoing evaluation and feedback for this project.

b. The adequacy of the applicant's plan to evaluate the overall effectiveness and success of the project.

6. Women and Racial and Ethnic Minorities in Research (5 Percent)

The extent to which the applicant addresses that they have met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (b) The proposed justification when representation is limited or absent; (c) A statement as to whether the design of the study is adequate to measure differences when warranted; (d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

7. Budget (not Scored)

The extent to which the applicant describes the total amount of funds requested in each of the object class categories and clearly links the budget items to objectives and activities proposed for the budget period.

8. Human Subjects (not Scored)

The extent to which the applicant has addressed necessary human subjects protections.

H. Other Requirements

Technical Reporting Requirements: Provide CDC with the original plus two copies of

1. Semi-annual progress reports including the following for each goal or activity involved in the study: (a) Comparison of actual accomplishments to the objectives established for the period; (b) the reasons for slippage if objectives were not met; (c) other pertinent information including, when appropriate, analysis and explanation of unexpectedly high costs for performance.

2. Financial Status Report is required within 90 days of each budget period.

3. Final financial status report and performance report are required within 90 days after the end of the project period.

Send all reports to: David Elswick, Grants Management Specialist Grants Management Branch, Procurement and Grants Office Centers for Disease Control and Prevention, (CDC) Room 300, 255 East Paces Ferry Road, NE., Mailstop E–13 Atlanta, GA 30305–2209.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment 1, included in the application kit.

AR98–1 Human Subjects Requirements
AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR98–9 Paperwork Reduction Act Requirements
AR98–10 Smoke-Free Workplace Requirements
AR98–11 Healthy People 2000
AR98–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act, section 317(k)(2) 42USC247247(b)(k)(2). The Catalog of Federal Domestic Assistance number assigned to this project is 93.283.

J. Where To Obtain Additional Information

To receive additional written information call 1–888–GRANTS4. You will be asked to leave your name, address, and phone number and will need to refer to Announcement **98103**. You will receive a complete program description, information on application procedures, and application forms. CDC will not send application kits by facsimile or express mail. **PLEASE REFER TO ANNOUNCEMENT NUMBER 98103 WHEN REQUESTING INFORMATION AND SUBMITTING AN APPLICATION**.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained by contacting:

David Elswick, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement **98103**
Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–13, Atlanta, GA 30305–2209, telephone (404) 842–6521

See also the CDC home page on the Internet: *http://www.cdc.gov*.

Programmatic technical assistance may be obtained from Mark L. Messonnier, Economist, Prevention Effectiveness Branch, Division of Prevention Research and Analytic Methods, Epidemiology Program Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop D–01, Atlanta, Georgia 30333, telephone (404) 639–4474.

Dated: July 13, 1998.

John L. Williams,

Director, Procurement and Grants Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–19074 Filed 7–16–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0291]

Determination of Regulatory Review Period for Purposes of Patent Extension; QUADRAMET®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for QUADRAMET® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration,

5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product QUADRAMET® (samarium sm 153 EDTMP). QUADRAMET® is indicated for relief of pain in patients with confirmed osteoblastic metastatic bone lesions that enhance radionuclide bone scan. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for QUADRAMET® (U.S. Patent No. 4,898,724) from The Dow Chemical Co., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated November 7, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of QUADRAMET® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for QUADRAMET® is 2,844 days. Of this time, 2,189 days occurred during the testing phase of the regulatory review period, 655 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) became effective (21 U.S.C. 355)*: June 16, 1989.

The applicant claims January 28, 1986, as the date the investigational new drug application (IND) for QUADRAMET® (IND 33,240) became effective for purposes of regulatory review period determination. Applicant also states the notice of clinical investigation exemption was submitted on May 16, 1989. However, FDA records indicate that the IND effective date was June 16, 1989, which was 30 days after FDA receipt of IND 33,240.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: June 13, 1995.

FDA has verified the applicant's claim that the new drug application (NDA) for QUADRAMET® (NDA 20,570) was initially submitted on June 13, 1995.

3. *The date the application was approved: March 28, 1997.* FDA has verified the applicant's claim that NDA 20,570 was approved on March 28, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,412 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before September 15, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before January 13, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 23, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–19027 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Nonprescription Drugs Advisory Committee: Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Nonprescription Drugs Advisory Committee. This meeting was announced in the **Federal Register** of June 26, 1998 (63 FR 34902). The amendment is being made to cancel the entire session on July 28, 1998. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Rhonda W. Stover or Angie Whitacre, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12541.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 26, 1998 (63 FR 34902), FDA announced that a meeting of the Nonprescription Drugs Advisory Committee would be held on July 28 and 29, 1998.

1. On page 34902, in the third column, the ''*Date and Time*'' portion is amended to read as follows:

Date and Time: The meeting will be held on July 29, 1998, 8:30 a.m. to 5 p.m.

2. On page 34902, beginning in the third column, the ''*Agenda*'' portion is amended by removing the first paragraph.

3. On page 34903, in the first column, under the ''*Procedure*'' portion, in the ninth line, ''July 28 and 29'' is corrected to read ''July 29''.

Dated: July 10, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–19031 Filed 7–17–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Nucleic Acid Testing for Hepatitis C Virus (HCV) and Other Viruses in Blood Donors; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing the following public workshop: Nucleic Acid Testing for Hepatitis C Virus (HCV) and Other Viruses in Blood Donors. The topic to be discussed is the exploration of the current state of technology and implementation of nucleic acid testing for screening blood donors.

Date and Time: The workshop will be held on Wednesday, September 16, 1998, 8:30 a.m. to 5 p.m.

Location: The workshop will be held at the Parklawn Bldg., 3d floor, conference rooms D and E, 5600 Fishers Lane, Rockville, MD 20857.

Contact: Joseph Wilczek, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6129, FAX 301–827–2843.

Registration: Mail or fax registration information (including name, title, firm name, address, telephone, and fax number) to the contact person by Friday, September 4, 1998. Registration at the site will done on a space available basis on the day of the workshop, beginning at 7:30 a.m. There is no registration fee for the workshop. Space is limited, therefore interested parties are encouraged to register early.

If you need special accommodations due to a disability, please contact Joseph Wilczek at least 7 days in advance.

Agenda: The public workshop is intended to discuss nucleic acid testing that currently is the most sensitive method available to further reduce disease transmission by blood transfusion in the early window phase of infection. Nucleic acid testing is being implemented for blood donor screening by testing plasma pools, and pool testing may be useful by serving as an interim measure until screening of individual blood donations is technologically feasible.

Regulatory and scientific topics to be discussed at the workshop include donor testing issues, pooling strategies, and test validation and reference materials for standardization of various nucleic acid technologies.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: July 9, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19110 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on September 1, 1998, 8:30 a.m. to 5:30 p.m., and September 2 and 3, 1998, 8 a.m. to 5:30 p.m.

Location: Holiday Inn, Versailles Ballroom, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: On September 1, 1998, the committee will discuss: (1) New drug application (NDA) 20–893 Metaret™ (suramin hexasodium for injection), Parke-Davis Pharmaceutical Research, indicated for the treatment of patients with hormone refractory prostate cancer; and (2) NDA 20–892 Valstar™ (valrubicin 40 milligrams/milliliter), Anthra Pharmaceuticals, Inc., indicated for intravesical use in the treatment of patients with biopsy-proven carcinoma *in situ* of the urinary bladder who are refractory to bacille Calmette-Gũerin (BCG) immunotherapy and for whom cystectomy is contraindicated. On September 2, 1998, the committee will discuss: (1) NDA supplement 17–970/S–040 Nolvadex® (tamoxifen citrate), Zeneca Pharmaceuticals, indicated for the prevention of breast cancer in women at high risk; and (2) biologics license application (BLA) 98–0369 Herceptin™ (trastuzumab), Genentech, Inc., indicated for the treatment of patients with metastatic breast cancer who have tumors which overexpress HER2. On September 3, 1998, the committee will discuss: (1) NDA supplement 20–571/S–08 Camptosar™ (irinotecan hydrochloride injection), Pharmacia & Upjohn, indicated for the treatment of patients with metastatic carcinoma of the colon or rectum whose disease has recurred or progressed following a 5-FU-based therapy; and (2) NDA supplement 20–451/S–003 Photofrin® (porfimer sodium) for injection, QLT PhotoTherapeutics, Inc., indicated for the reduction of obstruction and palliation of symptoms in patients with completely or partially obstructing endobronchial nonsmall cell lung cancer.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by August 14, 1998. Oral presentations from the public will be scheduled between approximately 8:45 a.m. and 9:15 a.m., on September 1, 1998, and between approximately 8:15 a.m. and 8:45 a.m., on September 2 and 3, 1998. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 14, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 9, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–19030 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0393]

National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guide entitled ''National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish.'' The guide was developed cooperatively by FDA and the Interstate Shellfish Sanitation Conference (ISSC) with the intent of replacing the existing NSSP Manuals of Operation, Parts I and II. The guide contains a Model Ordinance for ensuring that only safe and sanitary shellfish are offered for sale in interstate commerce. Language contained in the Model Ordinance has been codified for easy adoption into law or regulation by State regulatory agencies. The guide also includes documentation supportive of the codified language of the Model Ordinance, including: The NSSP's history, public health reasons and explanations specific to the guidelines contained in the Model Ordinance, NSSP guidance documents, suggested NSSP forms, shellfish policy setting documents, pertinent Federal regulations, and references to the public health reasons and explanations. These supportive materials aid in ensuring consistent and uniform implementation of a national shellfish safety program.

DATES: Comments on the guide may be submitted at any time.

ADDRESSES: Submit written comments on the guide to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written requests for single copies of the guide entitled ''National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish'' to the contact person in the nearest regional office listed in the **SUPPLEMENTARY INFORMATION** section of this document. Send two self-addressed adhesive labels to assist in processing your requests. An electronic version of the guide is available on the World Wide Web at (http/www.issc.org).

FOR FURTHER INFORMATION CONTACT: Paul W. DiStefano, Office of Seafood, Center for Food Safety and Applied Nutrition (HFS–417), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3150, FAX: 202–418–3198, e-mail: ''pdistefa@bangate.fda.gov'', or the contact person in the nearest regional office as listed in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION: Copies of the guide entitled ''National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish'' can be obtained from the nearest regional office as follows:

FDA Addresses	Contact Person
Stoneham District Office, State Programs Branch, One Montvale Ave., Stoneham, MA 02180	David G. Field
New York Regional Office, 850 Third Ave., Brooklyn, NY 11232–1593	Jerry H. Mulnick
Baltimore District Office, Investigations Branch, 900 Madison Ave., Baltimore, MD 21201	Al A. Ondis
Atlanta Regional Office, State Cooperative Programs, 60 Eighth St. NE., Atlanta, GA 30309	James A. Casey
Charleston Resident Post, 334 Meeting St., rm. 505, P.O. Box 21077, Charleston, SC 29413	Donald Hesselman
Tallahassee Resident Post, Hobbs Federal Bldg., 227 North Bronough St., suite 4150, Tallahassee, FL 32301	Marc B. Glatzer
Baton Rouge Resident Post, 5353 Essen Lane, suite 220, Baton Rouge, LA 70809	John E. Veazey
Detroit District Resident Post, 1560 East Jefferson Ave., Detroit, MI 48207	Nicholas L. Majerus
Dallas Regional Office, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247	David A. Blevins
Seattle District Office, 100 Second Ave., suite 2400, Seattle, WA 98104	Tim E. Sample
Shellfish Safety Team (HFS–628), 200 C St. SW., Washington, DC 20204	Stanley D. Ratcliffe

FDA is the Federal agency responsible for administration of the NSSP. The NSSP is a voluntary program in which State shellfish control agencies, the shellfish industry, FDA, and other Federal agencies participate. The NSSP, which has been in existence since 1925, addresses the sanitary control of fresh and frozen molluscan shellfish (oysters, clams, mussels, and scallops) offered for sale in interstate commerce. To promote uniform administrative and technical controls, the NSSP has developed and maintained recommended shellfish control practices for adoption by member States. These control practices, which were initially published as the NSSP Manuals of Operation, Parts I and II, are contained in the guide ''NSSP Guide for the Control of Molluscan Shellfish.''

In 1982, interested State officials and members of the shellfish industry formed the ISSC to provide a structure wherein State regulatory authorities could meet on a regular basis to discuss ways to improve shellfish sanitation and safety. FDA and the ISSC entered into a memorandum of understanding (MOU) that was published in the **Federal Register** of March 30, 1984 (49 FR 12751), agreeing, among other things, that FDA would provide technical assistance to the ISSC. The ISSC in turn would help FDA develop or revise program criteria and guidelines in the NSSP Manuals of Operation. Based on the MOU, and in cooperation with the ISSC, FDA periodically publishes revisions of the NSSP

Manuals of Operation based on resolutions adopted by voting delegates of the ISSC and with which FDA concurs.

The success of the NSSP is largely dependent on the States adopting and implementing the recommended shellfish control practices for the operation of effective programs. These recommended practices, which traditionally have been incorporated into the NSSP Manuals of Operation have been reconstituted in the form of a ''NSSP Guide for the Control of Molluscan Shellfish.'' The purpose of the ''NSSP Guide for the Control of Molluscan Shellfish'' handbook is twofold. First, it serves to redraft existing guidelines contained in the NSSP Manuals of Operation into a NSSP Model Ordinance, which contains language that can be readily codified into law or regulation by a State. Second, it sets forth supportive documentation pertinent to the codified language of the Model Ordinance, including: The NSSP's history, public health reasons and explanations specific to the guidelines contained in the Model Ordinance, NSSP guidance documents, suggested NSSP forms, shellfish policy-setting documents, pertinent Federal regulations, and references to the public health reasons and explanations.

Redrafting of the NSSP Manuals of Operation was accomplished through the efforts of the ISSC working in cooperation with FDA. This effort began in 1989 and continued through December 1997. Wherever possible, the concepts and language contained in the NSSP Manuals of Operation were used in the NSSP Model Ordinance. Where language did not exist to explain a requirement (e.g., flow charts), an explanation was developed. In cases where the intent of the NSSP Manuals of Operation was not clear, new definitions were developed. Apparently conflicting requirements in the Manuals of Operation were resolved by selecting the requirement that most clearly reflected the intent of the NSSP or by selecting the more restrictive requirement.

In 1997, FDA was asked by the ISSC to adopt the Model Ordinance. FDA recognized that if it were to do so, the NSSP Model Ordinance would be a FDA guideline, and as such, it would be subject to the policy of FDA relating to the development, issuance, and use of guidance documents, as expressed in the **Federal Register** of February 27, 1997 (62 FR 8961 at 8969 through 8971). This policy states that the public will be afforded an opportunity to comment on guidance documents in accordance with Level 1 Good Guidance Practices documents as set out in the **Federal Register** of February 27, 1997 (62 FR 8961).

The annual meeting of the ISSC, in the past and again at the July 1997 meeting, provided an essential forum for the development of revisions to the NSSP. The participatory process that occurs at this meeting serves the purposes and principles set forth in the agency's guidance documents policy. Therefore, in a notice published in the **Federal Register** of June 26, 1997 (62 FR 34480), FDA announced that the Model Ordinance was to be discussed at the July 1997 ISSC meeting, and that this meeting would act as the forum for public comment on the Model Ordinance as an FDA guidance document. FDA requested comment on the procedure, but received none.

With concurrence from FDA, the NSSP Model Ordinance was adopted by the ISSC at its July 1997 meeting in Sturbridge, MA. With this notice, FDA is announcing the availability of the Model Ordinance as contained within the guide ''NSSP Guide for the Control of Molluscan Shellfish.'' At the Federal level, the Model Ordinance has the status of guidance and, as such, does not create or confer any rights for or on any person and does not operate to bind FDA or the public. However, through their participation in the NSSP and the ISSC, participating States have voluntarily agreed to follow the Model Ordinance as the requirements which are minimally necessary for membership.

The public may comment on this document at anytime. The public may comment in one of two ways: (1) By attending the ISSC conference held annually for the purpose of, among other things, considering changes to the Model Ordinance; or (2) by commenting to FDA. Those comments that the agency finds meritorious will be offered by FDA for consideration and vote at a subsequent ISSC.

The NSSP Model Ordinance will facilitate uniform adoption of the recommended shellfish control practices by States for regulation of their shellfish industry. Adoption of the NSSP Model Ordinance by each State will strengthen the credibility of the National Shellfish Sanitation Program and the ''Interstate Certified Shellfish Shippers List'' (ICSSL), which identifies shellfish dealers certified by their State of residence as being in compliance with NSSP guidelines. Assurance that all shellfish dealers are meeting the minimum criteria will foster confidence in product safety.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guide. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. At the discretion of FDA, received comments will be used to develop issues for submission to the ISSC for consideration at its July 1999, annual meeting.

Dated: July 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19029 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Commission: National Institute of Dental Research Special Emphasis Panel, Emphasis Panel 44 & 45.

Date: July 26–28, 1998.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Yong A. Shin, PhD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and

Disorders Research, National Institutes of Health, HHS)

Dated: July 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19069 Filed 7–16–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Purusant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisons set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–8 02.

Date: July 22–24, 1998.

Time: July 22, 1998, 7:00 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Hotel, 625 El Camino Real, Palo Alto, CA 94301–2380.

Contact Person: Robert J. Haber, Phd, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8898.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–D (01).

Date: July 27, 1998.

Time: 10:00 am to adjournment.

Agenda: To review and evaluate grant applications.

Place: Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Ann Hagan, Chief, Review Branch, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Phs, Dhhs, Rm. 6as37, Bldg. 45, Bethesda, MD 20892, (301) 594–8886.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institute of Health, HHS)

Dated: July 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19070 Filed 7–16–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, International Drug Abuse Epidemiology Data Bank.

Date: July 17, 1998.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–49, Rockville, MD 20857 (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, 10–42, Rockville, MD 20857, (301) 443–1644.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Neurological Effects of Drug Addiction Therapies.

Date: August 3, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Kesinee Nimit, MD, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, Room 10–22, Rockville, MD 20857, (301) 443–9042.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: July 10, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19071 Filed 7–16–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Children With Serious Emotional Disturbance; Estimation Methodology

AGENCY: Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Final notice.

SUMMARY: This notice describes the final methodology to identify and estimate the number of children with a serious emotional disturbance (SED) within each State. This notice is being published as part of the requirements of Public Law 102–321, the ADAMHA Reorganization Act of 1992.

EFFECTIVE DATE: October 1, 1998.

Background

Public Law 102–321, the ADAMHA Reorganization Act of 1992, amended the Public Health Service Act and created the Substance Abuse and Mental Health Services Administration (SAMHSA). The Center for Mental Health Services (CMHS) was established within SAMHSA to coordinate Federal efforts in the prevention and treatment of mental illness, and the promotion of mental health. Title II of Public Law 102–321 establishes a Block Grant for Community Mental Health Services, administered by CMHS, that permits the allocation of funds to States for the provision of community mental health services for children with a SED and adults with a serious mental illness (SMI). Public Law 102–321 stipulates that States estimate the incidence (number of new cases) and prevalence (total number of cases in a year) of individuals with either SED or SMI in their applications for block grant funds.

As part of the process of implementing this new block grant, definitions of the terms ''children with a serious emotional disturbance'' and ''adults with a serious mental illness'' were announced on May 20, 1993, in **Federal Register** Notice, Volume 58, No. 96, p. 29422. Subsequently, a group of technical experts was convened by CMHS to develop an estimation methodology to ''operationalize'' the key concepts in the definition of children with SED. A similar group prepared an estimation methodology for adults with a SMI (March 28, 1997, **Federal Register** Notice, Volume 62, No. 60 p.14928).

Summary of Comments

This document reflects a thorough review and analysis of comments received in response to an earlier notice published in the **Federal Register**, on October 6, 1997. Ten letters expressing either support or concern regarding the proposed methodology were received by the close of the public comment period. Those expressing support praised the effort of the CMHS team of technical experts to develop reliable State estimates for the number of children with SED. Comments expressing concern generally noted limitations similar to those identified by the team of technical experts in the original October 6, 1997, **Federal Register** notice. These limitations included the exclusion of children from birth to age 8 and the exclusion of variables such as ethnicity and geographical location. Additionally, concerns were raised about whether the proposed methodology represented prevalence rates more precisely than State surveys or local data collection efforts.

Before addressing the comments, CMHS extends appreciation to representatives from Atlantic County, New Jersey, and the University of Texas Medical Branch at Galveston for directing attention to errors made in Table 3—1995 Estimates of Children and Adolescents with SED by State. The New Jersey upper limit for less-impaired children should read 102,594, and the Utah upper limit estimate should read 38,399. These corrections to Table 3 have been made and will be reflected in all subsequent publications.

Purpose of the Methodology

Although several comments indicated satisfaction with the estimation methodology, several others requested that CMHS clarify appropriate use of the methodology. In response, CMHS emphasizes that the methodology for children and adolescents with SED was developed specifically for States to use in the areas of planning and program development. Since it is obvious that resources for this population of children are inadequate in relation to need, States should continue to set priorities to assure the most cost-effective use of all available resources. Inclusion or exclusion of any individual based on this methodology is not intended to either confer or deny eligibility for any other service or benefit at the Federal, State, or local level.

Estimation Methods

Some comments suggested that surveys and other State-specific or local data would provide more precise estimations than the proposed methodology. CMHS understands this concern. However, a group of technical experts established by CMHS determined that the most valid method to estimate the prevalence of SED was to examine findings from extant community epidemiological studies that used a structured diagnostic interview connected to the DSM–III or DMS–III–R system. The group of technical experts thoroughly searched for studies that met this criteria and incorporated findings from all of the studies in its report. CMHS recognizes the value of local or statewide surveys but continues to support the view that the most valid estimates can be derived from community epidemiological studies that have used a structured diagnostic interview. CMHS will support the use of State data if they are based on community epidemiological studies that include a standardized diagnostic interview that is linked with the DSM system and that also includes a measurement of functional impairment.

Concerns were also raised that the singular use of poverty as an adjustment to prevalence rates was based on convenience. This is not the case and the October 6, 1997, **Federal Register** Notice summarizes the fastidious efforts taken to examine other potential variables. For each of the other variables considered, either insufficient evidence existed to determine if an adjustment should be made (e.g., for variables such as race and ethnic background, and population density) or the available evidence suggested that adjustment should not be made (i.e., gender). The findings from these efforts indicated that the prevalence of SED is greater in children from low socio-economic backgrounds than in children from middle-class or upper-class backgrounds. As a result, the decision was made to include percent-in-poverty as an adjustment factor. While the data were clear about an overall relationship, in the absence of any national studies, the quantitative adjustment that should be made could not be determined with precision. It therefore was decided that since the report could offer only general estimates of prevalence, given the shortcomings of the available data, the simplest and perhaps clearest way to adjust for percent-in-poverty would be to divide the States into groups based on the percent-in-poverty. Although this ''grouping'' method may potentially exaggerate the differences between States that fall in different categories, the percent-in-poverty measures differ in a relatively minor way. Because the estimates are not to be used to determine funding levels, the decision was made to use this grouping method despite minor problems. It is hoped that additional research will permit more precise estimations in the future.

With regard to estimation methods, concerns were also raised that the selection of poverty as the only variable to ''correct'' the estimated prevalence of SED would produce data that underestimated the State prevalence rates of SED. Several States emphasized that additional factors, including geographical data (urban/rural), would provide more representative data. CMHS recognizes the importance of this data. However, presently, the data in this area is not precise enough to draw estimates; in the absence of a national study, CMHS chose to utilize and analyze the most precise data available. In this instance, percent-in-poverty rates proved to be the most precise data available. As new data become available, these issues will be revisited.

One comment raised specific questions about the comparability of the prevalence estimates for children with SED with estimates from other studies. For example, Knitzer, in ''At the Schoolhouse Door,'' estimates that 3 to 5 percent of children are ''judged to be seriously emotionally disturbed'' (p. xii). However, this book was published in 1990, before CMHS developed the definition of SED on which the present estimate is based and before the results of most of the studies included in the present report were available. Similarly, the 1969 Joint Commission on the Mental Health of Children indicates that 2 to 3 percent suffered from severe disorders. The present report is based not only on more recent data but also on new instruments and a revised diagnostic system.

Finally, concerns were raised that prevalence estimates for children/adolescent with SED in individual States are not uniformly consistent with estimates for adults with SMI published by CMHS. In comparing data for children and adults, it should be

remembered that the data for children cover a restricted period of nine years (from ages nine through 17) while the adult estimates are for the adult lifetime, beginning at age 18 and over. Therefore, it is not surprising that within the same State estimates for children may be lower or higher than adults. Further, the group of technical experts that developed estimates for SMI found substantially higher prevalence rates in young adults than in older adults. Consequently, States with a high percentage of elderly will have lower overall prevalence rates of SMI than will States with a high percentage of young adults. When comparing adult prevalence rates with those for children, it is important to remember that the children's data are based on a relatively short developmental stage in relation to the adult rates.

Exclusion of Children Age Birth to 8

Several comments acknowledged the paucity of research on children from birth to 8 years and inquired about future research efforts by CMHS to address this population. CMHS acknowledges the need to develop estimation methodology for this very important population of young children. Current plans for developing this methodology include an updated literature review of prevalence data for children with a SED in the birth to 8 age group. CMHS will make these data available when obtained.

Exclusion of Puerto Rico

It was brought to the attention of CMHS that there was significant interest in obtaining prevalence estimates for children with SED in Puerto Rico. Estimates of children with SED, published on Monday, October 6, 1997, in **Federal Register**, Notice Volume 62, No 193, p. 52139, were based on 1995 U.S. Census Bureau population and poverty rate data. These Census Bureau estimates are not available for Puerto Rico and other U.S. territories. CMHS responds to these comments by obtaining SED estimates for Puerto Rico derived from 1990 census data (the most recent year for which data are available).

According to the Census Bureau, the poverty rate for Puerto Rico in 1990 was 66.8 percent for persons under 18 years. Using the steps outlined on page 52141 of the above **Federal Register** Notice, Puerto Rico with a poverty rate of 66.8 percent will be included in group C (the group with poverty rates in excess of 22 percent). At a level of functioning of 50 (LOF=50), the number of children and adolescents with SED is estimated to be between 7–9 percent of youth 9–17 years of age. At a level of functioning of 60 (LOF=60), the number of children and adolescents with SED is estimated to be between 11–13 percent of youth 9–17 years of age.

TABLE 1.—ESTIMATES OF CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE; STATE ESTIMATES ALGORITHMS

Territory	Number of youth 9–17	Percent in poverty	LOF*=50		LOF*=60	
			Lower limit	Upper limit	Lower limit	Upper limit
Puerto Rico	602,309	66.8	42,162	54,208	66,254	78,300

*LOF=Level of functioning from Children's Global Assessment Scale.

Exclusion of Substance Use Disorders

The decision to exclude substance use disorders from this estimation methodology was addressed in the 1993 **Federal Register** Notice that provided a national definition of SED. Because substance use disorders are not included in the definition of serious emotional disorder, they are not included in the current estimation methodology. Please see the **Federal Register** Notice (1993, 58(96), p. 29424) for a more detailed explanation.

Instrumentation

CMHS stresses that the methodology is based on the Children's Global Assessment Scale (CGAS) because the CGAS was the most commonly used instrument found in the community-based epidemiology literature received by the group of technical experts. When other instruments were used, the findings were taken into consideration. CMHS recognizes that a number of States use the Children's Adolescent Functional Assessment Scale-Mini-Scale and, consequently, does not discourage the use of this instrument.

Definition of Serious Emotional Disturbance

Some States expressed concern that the definition of SED used to estimate prevalence may result in an over-estimate of prevalence by counting children who had a diagnosis and functional impairment over a 2-year period rather than a 1-year period.

The definition used to estimate prevalence is ''total number of cases in a year.'' None of the studies cited in the report gathered prevalence information of a duration of greater than a year. In fact, most of the studies used to formulate the prevalence estimates utilized the Diagnostic Interview Schedule for Children, which derives prevalence information for a 6-month time period. Therefore, not only does the definition ensure against an over estimate of prevalence but also there is a possibility of a slight under estimate, based on the methods used.

Estimation Procedures

The following steps were taken to adjust for differences in State socio-economic circumstances. The 1995 State-by-State estimates of children and adolescents with SED are provided in Table 3.

Step 1

States were sorted by poverty rates (1995), in ascending order. Using this sort order, States were initially classified into three groups of equal proportions, i.e., the first 17 States were put into Group A; the next 17 States, into Group B; the remaining 17 States, into Group C. However, in reviewing the results, we noted that observations 17 and 18 differed by .01 percent. Observation number 18 was included in group A. For this reason, Group A has 18 cases, Group B has 16 cases, and Group C has 17 cases. Group A is the lowest percentage of children in poverty; Group B represents a mid-point; and Group C includes the highest percentage of children in poverty.

Step 2

At a level of functioning of 50 (LOF=50), the number of children and adolescents with SED is calculated to be between 5–7 percent of the number of youth between 9–17 years for Group A. For Group B, the estimate is between 6–8 percent of the number of youth 9–17 years. The estimated SED population for

Group C is calculated to be between 7–9 percent of the number of youth 9–17 years.

Step 3

At a level of functioning of 60 (LOF=60), the number of children and adolescents with SED is calculated to be between 9–11 percent of the number of youth 9–17 years for Group A. For Group B, the estimate is between 10–12 percent of the number of youth 9–17 years. The estimated SED population for Group C is calculated to be between 11–13 percent of the number of youth 9–17 years.

TABLE 2.—1995 ESTIMATES OF CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE; STATE ESTIMATES ALGORITHMS

States	Estimated population			
	LOF*=50		LOF*=60	
	Lower limit	Upper limit	Lower limit	Upper limit
Group A Lowest percent in poverty	5%	7%	9%	11%
Group B Medium percent in poverty	6%	8%	10%	12%
Group C Highest percent in poverty	7%	9%	11%	13%

*LOF=Level of functioning from the Children's Global Assessment Scale.

TABLE 3.—1995 ESTIMATES OF CHILDREN & ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE BY STATE

	State	Number of youth 9–17	Percent in poverty	LOF*=50		LOF*=60	
				Lower limit	Upper limit	Lower limit	Upper limit
	Total	33,706,204	.....	2,118,269	2,792,391	3,466,516	4,140,636
1	New Hampshire	147,695	4.07	7,385	10,339	13,293	16,246
2	Alaska	90,955	8.96	4,548	6,367	8,186	10,005
3	New Jersey	932,671	9.60	46,634	65,287	83,940	102,594
4	Utah	349,086	9.76	17,454	24,436	31,418	38,399
5	Minnesota	643,892	11.30	32,195	45,072	57,950	70,828
6	Colorado	491,930	11.34	24,597	34,435	44,274	54,112
7	Nebraska	231,037	11.62	11,552	16,173	20,793	25,414
8	Missouri	709,439	11.74	35,472	49,661	63,850	78,038
9	Kansas	354,722	12.55	17,736	24,831	31,925	39,019
10	Wisconsin	706,004	12.56	35,300	49,420	63,540	77,660
11	Hawaii	143,901	13.97	7,195	10,073	12,951	15,829
12	North Dakota	91,443	14.13	4,572	6,401	8,230	10,059
13	Virginia	790,359	14.38	39,518	55,325	71,132	86,939
14	Nevada	186,695	14.41	9,335	13,069	16,803	20,536
15	Indiana	758,633	15.24	37,932	53,104	68,277	83,450
16	Rhode Island	115,176	15.36	5,759	8,062	10,366	12,669
17	Delaware	85,396	15.56	4,270	5,978	7,686	9,394
18	Maine	160,434	15.57	8,022	11,230	14,439	17,648
19	Vermont	76,500	15.79	4,590	6,120	7,650	9,180
20	Maryland	608,209	15.80	36,493	48,657	60,821	72,985
21	Wyoming	75,106	16.21	4,506	6,008	7,511	9,013
22	Georgia	942,161	16.30	56,530	75,373	94,216	113,059
23	Massachusetts	680,101	17.12	40,806	54,408	68,010	81,612
24	Iowa	385,583	17.39	23,135	30,847	38,558	46,270
25	Washington	714,567	17.81	42,874	57,165	71,457	85,748
26	Connecticut	378,473	18.03	22,708	30,278	37,847	45,417
27	Pennsylvania	1,462,731	18.07	87,764	117,018	146,273	175,528
28	Oregon	411,543	18.22	24,693	32,923	41,154	49,385
29	Michigan	1,275,452	18.36	76,527	102,036	127,545	153,054
30	Ohio	1,451,220	19.33	87,073	116,098	145,122	174,146
31	Idaho	183,829	20.57	11,030	14,706	18,383	22,059
32	South Dakota	108,855	20.74	6,531	8,708	10,886	13,063
33	North Carolina	879,091	21.06	52,745	70,327	87,909	105,491
34	Kentucky	504,373	21.25	30,262	40,350	50,437	60,525
35	Illinois	1,517,182	22.14	106,203	136,546	166,890	197,234
36	Tennessee	658,573	22.23	46,100	59,272	72,443	85,614
37	Montana	126,834	22.39	8,878	11,415	13,952	16,488
38	Arkansas	337,718	22.44	23,640	30,395	37,149	43,903
39	Texas	2,623,654	24.53	183,656	236,129	288,602	341,075
40	California	3,968,950	24.97	277,827	357,206	436,585	515,964
41	Oklahoma	457,496	24.98	32,025	41,175	50,325	59,474
42	Arizona	542,019	25.31	37,941	48,782	59,622	70,462
43	Florida	1,623,697	25.50	113,659	146,133	178,607	211,081
44	New York	2,141,435	25.51	149,900	192,729	235,558	278,387
45	West Virginia	231,390	26.93	16,197	20,825	25,453	30,081
46	Alabama	547,671	27.50	38,337	49,290	60,244	71,197
47	Louisiana	639,158	29.69	44,741	57,524	70,307	83,091

TABLE 3.—1995 ESTIMATES OF CHILDREN & ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCE BY STATE—Continued

State	Number of youth 9–17	Percent in poverty	LOF*=50		LOF*=60	
			Lower limit	Upper limit	Lower limit	Upper limit
48 South Carolina	470,875	32.11	32,961	42,379	51,796	61,214
49 Washington, DC	48,365	35.33	3,386	4,353	5,320	6,287
50 New Mexico	251,231	36.59	17,586	22,611	27,635	32,660
51 Mississippi	392,694	37.03	27,489	35,342	43,196	51,050

Dated: June 29, 1998.

Joseph Faha,

Director, Legislation & External Affairs.

[FR Doc. 98–19039 Filed 7–16–98; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–19]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226: TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 15, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: INTERIOR: Ms. Lola D. Knight, Department of Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–6342; TRANSPORTATION: Mr. Rugene Spruill, Principal, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW, Room 2310, Washington, DC 20590; (202) 366–4246; (These are not toll-free numbers).

Dated: July 9, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 07/17/98

Suitable/Available Properties

Buildings (by State)

Illinois

Radar Communication Link
½ mi east of 116th St.
Co: Will IL
Landholding Agency: GSA
Property Number: 549820013
Status: Excess
Comment: 297 sq. ft. concrete block bldg. with radar tower antenna, possible lead based paint, most recent use—air traffic control
GSA Number: 2–U–IL–696

Natl Weather Svc. Meter. Obs.
Morris Blacktop Rd.
Miller Township Co: LaSalle IL 61341–
Landholding Agency: GSA
Property Number: 549820014
Status: Excess
Comment: 1400 sq. ft. office bldg. & 500 sq. ft. garage
GSA Number: 1–C–IL–708

Indiana

Vincennes Federal Building
501 Busseron St.
Vincennes Co: Knox IN 47591–
Landholding Agency: GSA
Property Number: 549820015
Status: Excess
Comment: 22,000 sq. ft., presence of asbestos, property is historically significant, most recent use—office bldg.
GSA Number: 1–G–IN–592

Massachusetts

Roberts—Tract #15–2352
Pearsall Drive
Truro Co: Barnstable MA 02666–
Landholding Agency: Interior
Property Number: 619820012
Status: Unutilized
Comment: 830 sq. ft., needs rehab, presence of lead paint, most recent use—residence, off-site use only

Wisconsin

Wausau Federal Building
317 First Street
Wausau Co: Marathon WI 54401–
Landholding Agency: GSA
Property Number: 549820016
Status: Excess
Comment: 30,500 sq. ft., presence of asbestos, eligible for listing on the Natl Register of Historic Places, most recent use—office
GSA Number: 1–G–WI–593

Land (by State)

West Virginia

East Williamson
Segment 7
Williamson Co: Mingo WV 25661–
Landholding Agency: GSA
Property Number: 549820012
Status: Excess
Comment: 3.17 acres sectioned, floodplain
GSA Number: 4–D–WV–528

Suitable/Unavailable Properties

Buildings (by State)

Oklahoma

Fed. Bldg./Courthouse
N. Washington & Broadway Streets
Ardmore Co: Carter OK 73402–
Landholding Agency: GSA
Property Number: 549820009
Status: Excess
Comment: 4000 sq. ft. bldg. w/parking, 3 story plus basement, most recent use—office, subject to historic preservation covenants
GSA Number: 7–G–TX–559

Land (by State)

Florida

13.358 acres
Naval Air Station
Hwy 98 & Perimeter Drive
Pensacola Co: Escambia FL 32508–
Landholding Agency: Navy
Property Number: 779820141
Status: Unutilized
Comment: paved, abandoned runway, reroute security fencing

Unsuitable Properties

Buildings (by State)

Hawaii

Bldg. 447
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820131
Status: Excess
Reason: Extensive deterioration

Bldg. 448
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820132
Status: Excess
Reason: Extensive deterioration

Bldg. 451
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820133
Status: Excess
Reason: Extensive deterioration

Bldg. 452
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820134
Status: Excess
Reason: Extensive deterioration

Bldg. 453
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820135
Status: Excess
Reason: Extensive deterioration

Bldg. 455
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820136
Status: Excess
Reason: Extensive deterioration

Bldg. 456
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820137
Status: Excess
Reason: Extensive deterioration

Bldg. 459
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820138
Status: Excess
Reason: Extensive deterioration

Bldg. 464
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779820139
Status: Excess
Reason: Extensive deterioration

Pennsylvania

Bldg. 610
Naval Inventory Control Point
Mechanicsburg, PA 17055–0788
Landholding Agency: Navy
Property Number: 779820140
Status: Unutilized
Reason: Extensive deterioration

Washington

Coal Handling Facilities
Puget Sound Naval Shipyard
#908, 919, 926–929
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 779820142
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldg. 193
Puget Sound Naval Shipyard
Bremerton, WA 98310–
Landholding Agency: Navy
Property Number: 779820143
Status: Unutilized
Reason: Other
Comment: contamination

Floating Boathouse
Bellingham Co: Whatcom WA 98225–
Landholding Agency: DOT
Property Number: 879822001
Status: Excess
Reason: Other
Comment: inaccessible

Land (by State)

Alaska

0.02 acre
Noatak National Guard Site
Noatak Co: Kobuk AK 99761–
Landholding Agency: GSA
Property Number: 549820008
Status: Surplus
Reason: Other
Comment: no legal access
GSA Number: 9–D–AK–752

South Carolina

77 sq. ft. parcel
Hollings Judicial Center Court House
Charleston SC 29401–
Landholding Agency: GSA

Property Number: 549820010
Status: Surplus
Reason: Other
Comment: no legal access
GSA Number: 4–G–SC–595

West Virginia

Williamson Non-Structural Segment 6
Williamson Co: Mingo WV 25661–
Landholding Agency: GSA
Property Number: 549820011
Status: Excess
Reason: Floodway
GSA Number: 4–D–WV–528A

[FR Doc. 98–18780 Filed 7–16–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. PRT–842116

Applicant: Lewisville Aquatic Ecosystem Research Facility, Lewisville, Texas.

Applicant requests authorization to conduct scientific research and recovery activities for Texas wildrice (*Zizania texana*).

Permit No. PRT–813889

Applicant: Navajo Fish and Wildlife Department, Window Rock, Arizona.

Applicant requests authorization to conduct presence/absence surveys for peregrine falcons (*Falco peregrinus*), black-footed ferrets (*Mustela nigripes*), southwestern willow flycatchers (*Empidonax traillii extimus*), Mancos milkvetch (*Astragalus humillimus*), and Brady pincushion cactus (*Pediocactus (=tourmeya) bradyi*) in Arizona and New Mexico and in portions of the Navajo Nation.

Permit No. PRT–839814

Applicant: Sea World of Texas, San Antonio, Texas.

Applicant requests authorization to maintain Kemp's ridley (*Lepidochelys kempii*) sea turtles, hawksbill (*Eretmochelys imbricata*) sea turtles, leatherback (*Dermochelys coriacea*) sea turtles, green (*Chelonia mydas*) sea turtles and loggerhead (*Caretta caretta*) sea turtles for research and recovery purposes, education, display and rehabilitation of sick and injured specimens of all sea turtles species from the coastal area of Texas.

Permit No. PRT–842565

Applicant: Cibola National Forest.

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*), American peregrine falcons (*Falco peregrinus anatum*), bald eagles (*Haliaeetus leucocephalus*), and Zuni fleabane (*Erigeron rhizomatus*) on the Cibola National Forests in New Mexico.

Permit No. PRT–842566

Applicant: Lamar University, Department of Biology, Beaumont, Texas.

Applicant requests authorization for scientific research and recovery purposes to collect specimens of 25 populations of Texas prairie dawn-flower (*Hymenoxys texana*) from the greater Houston, Texas, area and Harris and Fort Bend Counties, Texas.

Permit No. PRT–842583

Applicant: La Tierra Environmental Consulting, Las Cruces, New Mexico.

Applicant requests authorization to conduct presence/absence surveys for aplomado falcons (*falco femoralis septentrionalis*), and southwestern willow flycatchers (*Empidonax traillii extimus*) on Fort Bliss and New Mexico.

Permit No. PRT–831540

Applicant: City of San Marcos, San Marcos, Texas.

Applicant requests authorization to collect Texas wildrice (*Zizania texana*) for scientific research and recovery purposes in the San Marcos River, Texas.

Permit No. PRT–772084

Appliant: Sunrise Nursery, Leander, Texas.

Applicant requests authorization to sell in interstate commerce artificially propagated specimens of the federally protected star cactus (*Astrophytum* (=*Echinocactus*) *asterias*) and Pima pineapple cactus (*Coryphantha scheeri var. robustispina*).

Permit No. PRT–839505

Applicant: Aaron D. Flesch, Flagstaff, Arizona.

Applicant requests authorization to survey for masked bobwhite (*Colinus virginianus ridgwayi*) on the Buenos Aires National Wildlife Refuge in Arizona, and the Pima pineapple cactus (*Coryphantha scheeri robustispina*) in Pima County, Arizona.

Permit No. PRT–841838

Applicant: Karen Ritchie, Austin, Texas.

Applicant requests authorization to survey for nesting red-cockaded woodpeckers (*Picoides borealis*) in Bell, Hays, Travis, Williamson, Hardin, Walker, Montgomery, and Walker Counties, Texas.

Permit No. PRT–844147

Applicant: Program on Genetics, University of Arizona, Tucson, Arizona.

Applicant requests authorization to collect Arizona hedgehop cactus (*Echinocereus triglochidiatus var. arizonicus*) from the Bureau of Land Management-Safford District, Cibola, Apache-Sitgreaves, Coronado, and Gila National Forests in Arizona and New Mexico.

Permit No. PRT–828640

Applicant: Harris Environmental Group, Tucson, Arizona.

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) in riparian areas of Arizona and New Mexico; and lesser long-nosed bats (*Leptonycteris curasoea yerbabuenae*) within Arizona and New Mexico.

DATES: Written comments on these permit applications must be received on or before August 17, 1998.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Renne Lohoefener,

ARD-Ecological Services Region 2, Albuquerque, New Mexico.

[FR Doc. 98–19075 Filed 7–16–98; 8:45 am]

BILLING CODE 4510–55–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for the Procedures and Criteria for Approval or Disapproval of State Program Submissions at 30 CFR Part 732 described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by August 17, 1998, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically to jtreleas@osmre.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). OSM has submitted a request to OMB to renew its approval of the collection of information contained in the Procedures and Criteria for Approval or Disapproval of State Program Submissions at 30 CFR Part 732. OSM is requesting a 3-year term of approval for this information collection activity.

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 number for this collection of information is listed in 30 CFR Part 732, which is 1029–0024.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on April 27, 1998 (63 FR 20649). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Procedures and Criteria for Approval or Disapproval of State Program Submissions, 30 CFR Part 732.

OMB Control Number: 1029–0024.

Summary: Part 732 establishes the procedures and criteria for approval and disapproval of State program submissions. The information submitted is used to evaluate whether State regulatory authorities are meeting the provisions of their approved programs.

Bureau Form Number: None.

Frequency of Collection: On occasion and annually.

Description of Respondents: 24 State regulatory authorities.

Total Annual Responses: 65.

Total Annual Burden Hours: 8,965.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240, or electronically to jtrelease@osmre.gov.

Dated: July 14, 1998.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 98–19088 Filed 7–16–98; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree

Notice is hereby given that on July 6, 1998, a proposed Second Partial Consent Decree in *United States* v. *Findett Corporation, et al.* No. 4:97CV01557CDP (E.D. Mo.) was filed with the United States District Court for the Eastern District of Missouri. The action was filed on July 25, 1997 under Section 107 of CERCLA, 42 U.S.C. 9607, to recover response costs incurred or to be incurred by the United States associated with Findett/Hayford Bridge Road Site in St. Charles, Missouri.

Under the terms of the proposed Decree, General Motors, Mallinckrodt Chemical, and Monsanto will pay a total of $1,712,076 to the Superfund, exclusively for past United States response costs. The first Partial Consent Decree pending before the Court provides for the payment of an additional $455,000. The United States' outstanding past costs were estimated at approximately $3.2 million as of March 31, 1998.

The Second Partial Consent Decree may be examined by the Office of the United States Attorney, U.S. Court & Custom House, 1114 Market Street, Room 401, St. Louis, MO 63101; the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication comments relating to the proposed Partial Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, 950 Pennsylvania Ave., N.W., Washington, D.C. 20530, and should refer to *United States* v. *Findett Corporation, et al.*, DOJ Ref. #90–11–2–417A.

Joel M. Gross,

Chief, Environmental Enforcement Section.

[FR Doc. 98–19125 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on July 6, 1998, a proposed consent decree in *United States* v. *W.R. Grace & Co.—Conn.*, Civil Action No. 97–CV–12583–NG, was lodged with the United States

District Court for the District of Massachusetts.

In this action against defendant W.R. Grace & Co.—Conn. (''Grace''), the United States seeks reimbursement of certain response costs and a declaratory judgment for future response costs regarding the W.R. Grace Superfund Site (the ''Site''), located in Action, Massachusetts. Grace has owned and operated a facility at the Site since 1954. The consent decree provides that Grace will reimburse the United States $1,525,000 for Past Response Costs out of about $4.2 million (including interest) and reimburse the United States for all Future Oversight Costs at the Site. Grace is performing cleanup activities at the Site pursuant to a 1980 settlement of claims under the Resource Conservation and Recovery Act.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *W.R. Grace & Co.—Conn.*, Civil Action No. 97–CV–12583–NG, D.J. Ref. 90–11–2–1241.

The proposed consent decree may be examined at the at the Region I Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, 02203 (contact Gretchen Muench, 617–565–4904) and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $8.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–19123 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Robert M. Golden, M.D.; Denial of Application

On January 9, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert M. Golden, M.D., of Alpharetta, Georgia, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), for reason for such registration would be inconsistent with the public interest. The order also notified Dr. Golden that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on January 16, 1998. No request for a hearing or any other reply was received by the DEA from Dr. Golden or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that: (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Golden is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that Dr. Golden previously possessed DEA Certificate of Registration, AG6243125. On May 25, 1994, an Order to Show Cause was issued proposing to revoke that Certificate of Registration, alleging that Dr. Golden's continued registration would be inconsistent with the public interest. Following a hearing before Administrative Law Judge Paul A. Tenney, the then-Deputy Administrator revoked Dr. Golden's DEA registration effective June 17, 1996. See Robert M. Golden, M.D., 61 FR 24808 (May 16, 1996).

In the prior proceeding, the then-Deputy Administrator found that in April 1987, Dr. Golden entered into a Consent Order with the Georgia State Board of Medical Examiners based upon allegations of recordkeeping violations, the prescribing or dispensing of controlled substances while not acting in the usual course of professional practice, and the prescribing or ordering of controlled substances for an illegitimate medical purpose. In addition, the then-Deputy Administrator found that in 1992, a confidential informant received prescriptions for Xanax, a Schedule IV controlled substance, from Dr. Golden who issued the prescriptions using names other than that of the informant. Also, on two occasions in 1992, Dr. Golden issued prescriptions for Xanax to an undercover police officer for no legitimate medical purpose. In his final order the then-Deputy Administrator found that Dr. Golden's conduct ''demonstrate[s] a cavalier behavior regarding controlled substances'' and that ''[Dr. Golden] did not acknowledge any possibility of questionable conduct in his prescribing practices.'' The then-Deputy Administrator found that he ''was provided no basis to conclude that [Dr. Golden] would lawfully handle controlled substances in the future,'' and therefore revoked Dr. Golden's previous registration.

On June 15, 1997, Dr. Golden submitted an application for a new DEA registration. That application is the subject of these proceedings. The Acting Deputy Administrator concludes that the then-Deputy Administrator's May 16, 1996 decision regarding Dr. Golden is *res judicata* for purposes of this proceeding. See Stanley Alan Azen, M.D., 61 FR 57893 (1996) (where the findings in a previous revocation proceeding were held to be *res judicata* in a subsequent administrative proceeding.) The then-Deputy Administrator's determination of the facts relating to the previous revocation of Dr. Golden's DEA registration is conclusive. Accordingly, the Acting Deputy Administrator concludes that the critical consideration in this proceeding is whether the circumstances, which existed at the time of the prior proceeding, have changed sufficiently to support a conclusion that Dr. Golden's registration would be in the public interest.

The Acting Deputy Administrator finds that documentation in the investigative file reveals that since the prior proceeding, Dr. Golden's state medical license was placed on probation on April 4, 1996, for at least four years, pursuant to a Consent Order with the Composite State Board of Medical Examiners for the State of Georgia (Board). As a result of this Consent Order, Dr. Golden is prohibited from handling Schedule I through III controlled substances, and other specifically named substances. In addition, Dr. Golden must use triplicate prescriptions, maintain a log of his handling of controlled substances, and attend continuing medical education courses.

The Acting Deputy Administrator finds that there is a letter with attachments from Dr. Golden dated October 8, 1997, in the investigative file. This documentation reveals that Dr. Golden now practices cosmetic surgery; that he would like to be able to prescribe Valium and Versed, both Schedule IV controlled substances; that he has been in compliance with the Board's April 1996 Consent Order; and

that on May 16, 1997, he completed a course in the appropriate prescribing of controlled substances. On his application for registration, Dr. Golden states that ''I feel that I have become more responsible * * *.'' However, Dr. Golden did not respond to the Order to Show Cause, and therefore did not provide the Acting Deputy Administrator with any other evidence for consideration.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that such registration would be inconsistent with the public interest. In determining the public interest, the following factors are considered.

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., 54 FR 16422 (1989).

As discussed above, Dr. Golden's previous registration was found to be inconsistent with the public interest. Since that time, Dr. Golden's state medical license was again placed on probation until at least April 2000. The Acting Deputy Administrator finds that Dr. Golden has not presented sufficient evidence to indicate that his registration would now be in the public interest. While Dr. Golden has taken a course in the appropriate prescribing of controlled substances, and he asserts on his application that he has ''become more responsible,'' the Acting Deputy Administrator is not convinced that Respondent has accepted responsibility for his previous mishandling of controlled substances. Therefore, the Acting Deputy Administrator concludes that Dr. Golden's registration would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration, executed by Robert M. Golden, M.D., be, and it hereby is, denied. This order is effective August 17, 1998.

Dated: July 10, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19081 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Fred D. Oremland, M.D., Revocation of Registration

On January 13, 1998, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Fred D. Oremland, M.D., of California, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AO4999592, under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of California. The order also notified Dr. Oremland that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on January 31, 1998. No request for a hearing or any other reply was received by the DEA from Dr. Oremland or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Oremland is deemed to have waived his hearing right. After considering material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.43(d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on August 23, 1995, the Medical Board of California (Board) filed an Accusation against Dr. Oremland alleging improper and excessive treatment; improper and excessive billing; the creation of false medical records; repeated violations of patient confidence; exploitation of a patient; excessive prescribing of dangerous drugs and controlled substances; and violations of statutory recordkeeping requirements. On June 25, 1996, Dr. Oremland entered into a stipulation with the Board whereby he agreed to surrender his physician and surgeon's certificate by October 1, 1996. In addition, Dr. Oremland agreed to waive his right to renew his state certificate and to not seek reinstatement or relicensure for at least three years. This stipulation was accepted by the Board by Order dated July 17, 1996. A letter from the Board dated January 13, 1998, which is in the investigative file, indicates that Dr. Oremland's California physician and surgeon's certificate was in fact surrendered.

The Acting Deputy Administrator finds that in light of the fact that Dr. Oremland is not currently licensed to practice medicine in the State of California, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Romeo J. Perez, M.D., 62 FR 16, 193 (1997); Demetris A. Green, M.D., 61 FR 60, 728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

Here it is clear that Dr. Oremland is not currently authorized to handle controlled substances in the State of California. Therefore, Dr. Oremland is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AO4999592, previously issued to Fred D. Oremland, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective August 17, 1998.

Dated: July 10, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19082 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–29]

David M. Rose, MD.; Revocation of Registration

On May 15, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David M. Rose, M.D. (Respondent), of Massachusetts, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BR2726365, under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the Commonwealth of Massachusetts.

The Order to Show Cause was ultimately received by Respondent on August 12, 1997, In a letter to the DEA Office of Administrative Law Judges dated August 15, 1997. Respondent did not dispute that his license to practice medicine in the Commonwealth of Massachusetts was suspended. Respondent further stated, ''[h]owever, I am soon to enter into a probationary agreement with [the Massachusetts Board of Medicine] that will allow me to practice medicine in a restricted and monitored fashion[.] I wonder if then at that time it would be possible for me to apply for some sort of DEA license with whatever restrictions [DEA] would deem appropriate, so that I may prescribe medications if and when I am allowed to continue practice?'' Respondent did not request a hearing on the issues raised by the Order to Show Cause.

The matter was docketed before Administrative Law Judge Mary Ellen Bittner. On October 16, 1997, Government counsel sent a letter to Respondent which advised him that he could either surrender his DEA Certificate of Registration, request a hearing, or waive his right to a hearing and submit a written statement for consideration regarding the proposed revocation of his registration. Respondent was further advised that if he surrendered his registration or DEA revoked it, he could reapply for a new DEA Certificate of Registration upon reinstatement of his state license, but that his DEA registration would not be automatically reinstated if he regains his state license.

Thereafter, on November 3, 1997, the Office of Administrative Law Judges sent Respondent a letter advising him that if no request for a hearing was received by November 24, 1997, he would be deemed to have waived his right to a hearing. On December 8, 1997, Judge Bittner issued a Memorandum and Order stating that since no request for a hearing was received, Respondent was deemed to have waived his opportunity for a hearing pursuant to 21 CFR 1301.43(d). Consequently, after considering relevant material from the investigative file, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that on November 9, 1994, the Commonwealth of Massachusetts, Board of Registration in Medicine issued an Order of Suspension of Respondent's license to practice medicine in the Commonwealth of Massachusetts. The suspension was based on charges related to Respondent's mental condition and dependence on alcohol and drugs; the substandard quality of medical care Respondent provided; Respondent's false statements on his Massachusetts license renewal application; and his violation of the Controlled Substances Act.

Respondent did not present any evidence that his Massachusetts medical license has been reinstated. Therefore, the Acting Deputy Administrator finds that Respondent is not currently authorized to practice medicine in the Commonwealth of Massachusetts. The Acting Deputy Administrator further finds that it is reasonable to infer that Respondent is also not authorized to handle controlled substances in that state. The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See *Romeo J. Perez, M.D.*, 62 FR 16,193 (1997); *Demetris A. Green, M.D.*, 61 FR 60,728 (1996); *Dominick A. Ricci, M.D.*, 58 FR 51,104 (1993).

Here it is clear that Respondent is not currently authorized to handle controlled substances in the Commonwealth of Massachusetts. Therefore, he is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BR2726365, previously issued to David M. Rose. M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective August 17, 1998.

Dated: July 10, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19083 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA#167R]

Controlled Substances: Proposed Revised Aggregate Production Quotas for 1998

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed revised 1998 aggregate production quotas.

SUMMARY: This notice proposes revised 1998 aggregate production quotas for controlled substances in Schedules I and II of the Controlled Substances Act (CSA).

DATES: Comments or objections should be received on or before August 17, 1998.

ADDRESSES: Send comments or objections to the Acting Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn.: DEA Federal Register Representative (CCR).

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations. The Administrator, in turn, has redelegated this function to the Deputy Administrator of the DEA pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations.

On November 21, 1997, a notice of established initial 1998 aggregate production quotas for certain controlled substances in Schedules I and II was published in the **Federal Register** (62 FR 62349). The notice proposing initial

1998 aggregate production quotas (62 FR 46373) stipulated that the Deputy Administrator of the DEA would adjust the quotas in early 1998 as provided for in Section 1303 of Title 21 of the Code of Federal Regulations.

The proposed revised 1998 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 1998 to provide adequate supplies of each substance for: the estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks. These quotas do not include imports of controlled substances for use in industrial processes.

The proposed revisions are based on a review of 1997 year-end inventories, 1997 disposition data submitted by quota applicants, estimates of the medical needs of the United States, and other information available to the DEA.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA of 1970 (21 U.S.C. 826), delegated to the Administrator of the DEA by Section 0.100 of Title 28 of the Code of Federal Regulations, and redelegated to the Deputy Administrator pursuant to Section 0.104 of Title 28 of the Code of Federal Regulations, the Acting Deputy Administrator hereby proposes the following revised 1998 aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base:

Basic class	Previously established initial 1998 quotas	Proposed revised 1998 quotas
Schedule I:		
2, 5-Dimethoxyamphetamine	15,000,100	20,000,100
2, 5-Dimethoxy-4-ethylamphetamine (DOET)	2	2
3-Methylfentanyl	14	14
3-Methylthiofentanyl	2	2
3,4-Methylenedioxyamphetamine (MDA)	25	25
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	30	30
3,4-Methylenedioxymethamphetamine (MDMA)	20	20
3,4,5-Trimethoxyamphetamine	2	2
4-Bromo-2,5-Dimethoxyamphetamine (DOB)	2	2
4-Bromo-2,5-Dimethoxyphenethylamine (2–CB)	2	2
4-Methoxyamphetamine	100,100	100,100
4-Methylaminorex	2	2
4-Methyl-2,5-Dimethoxyamphetamine (DOM)	2	2
5-Methoxy-3,4-Methylenedioxyamphetamine	2	2
Acetyl-alpha-methylfentanyl	2	2
Acetylmethadol	7	7
Allylprodine	2	2
Alpha-acetylmethadol	7	7
Alpha-ethyltryptamine	2	2
Alphameprodine	2	2
Alpha-methadol	2	2
Alpha-methylfentanyl	2	2
Alphaprodine	2	2
Alpha-methylthiofentanyl	2	2
Aminorex	7	7
Beta-acetylmethadol	2	2
Beta-hydroxyfentanyl	2	2
Beta-hydroxy-3-methylfentanyl	2	2
Beta-methadol	2	2
Betaprodine	2	2
Bufotenine	2	2
Cathinone	9	9
Codeine-N-oxide	2	2
Diethyltryptamine	2	2
Difenoxin	16,000	16,000
Dihydromorphine	7	7
Dimethyltryptamine	2	2
Ethylamine Analog of PCP	5	5
Heroin	2	2
Hydroxypethidine	2	2
Lysergic acid diethylamide (LSD)	57	57
Mescaline	7	7
Methaqualone	17	17
Methcathione	11	11
Morphine-N-oxide	2	2
N-Ethylamphetamine	7	7
N-Hydroxy-3,4-Methylenedioxyamphetamine	4	4
N,N-Dimethylamphetamine	7	7
Noracymethadol	2	2
Norlevorphanol	2	2
Normethadone	7	7
Normorphine	7	7
Para-fluorofentanyl	2	2
Pholcodine	2	2
Psilocin	2	2

Basic class	Previously established initial 1998 quotas	Proposed revised 1998 quotas
Psilocybin	2	2
Tetrahydrocannabinols	26,000	31,000
Thiofentanyl	2	2
Trimeperidine	2	2
Schedule II:		
1-Phenylcyclohexylamine	15	15
1-Piperidinocyclohexanecarbonitrile (PCC)	12	12
Alfentanil	8,100	8,100
Amobarbital	12	12
Amphetamine	4,037,000	4,178,000
Cocaine	550,100	550,100
Codeine (for sale)	62,020,000	62,020,000
Codeine (for conversion)	18,460,000	23,906,000
Desoxyephedrine 1,151,000 grams of levodesoxyephedrine for use in a non-controlled, non-prescription product and 32,000 grams for methamphetamine	1,332,000	1,183,000
Dextropropoxyphene	109,500,000	109,500,000
Dihydrocodeine	189,000	46,000
Diphenoxylate	1,600,000	1,600,000
Ecgonine	651,000	651,000
Ethylmorphine	12	12
Fentanyl	202,000	202,000
Glutethimide	2	2
Hydrocodone (for sale)	13,908,000	16,314,000
Hydrocodone (for conversion)	3,000,000	3,000,000
Hydromorphone	766,000	766,000
Isomethadone	12	12
Levo-alpha-acetylmethadol (LAAM)	356,000	356,000
Levomethorphan	2	2
Levorphanol	15,000	15,000
Meperidine	9,311,000	9,745,000
Methadone (for sale)	3,790,000	5,413,000
Methadone (for conversion)	1,169,000	585,000
Methadone Intermediate	6,777,000	7,488,000
Methamphetamine (for conversion)	723,000	723,000
Methylphenidate	14,442,000	14,442,000
Morphine (for sale)	11,535,000	12,034,000
Morphine (for conversion)	75,918,000	75,918,000
Nabilone	2	2
Noroxymorphone (for sale)	25,000	25,000
Noroxymorphone (for conversion)	2,117,000	2,177,000
Opium	615,000	615,000
Oxycodone (for sale)	9,032,000	9,451,000
Oxymorphone	120,000	126,000
Pentobarbital	16,562,000	16,562,000
Phencyclidine	60	60
Phenmetrazine	2	2
Phenylacetone	10	10
Secobarbital	301,000	397,000
Sufentanil	700	1,800
Thebaine	9,580,000	13,230,000

The Acting Deputy Administrator further proposes that aggregate production quotas for all other Schedules I and II controlled substances including §§ 1308.11 and 1308.12 of Title 21 of the Code of Federal Regulations remain at zero.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object to or comment on the proposal relating to any of the above-mentioned substances without filing comments or objections regarding the others. If a person believes that one or more of these issues warrant a hearing, the individual should so state and summarize the reasons for this belief.

In the event that comments or objections to this proposal raise one or more issues which the Acting Deputy Administrator finds warrant a hearing, the Acting Deputy Administrator shall order a public hearing by notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Acting Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for Schedule I and II controlled substances is mandated by law and by international treaty obligations. Aggregate production quotas apply to

approximately 200 DEA registered bulk and dosage from manufacturers of Schedules I and II controlled substances. The quotas are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Acting Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–19084 Filed 7–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Solicitor

Agency Information Collection Activities: Proposed Collection; Comment Request; Equal Access to Justice Act

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3505(c)(2)(A)]. The program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of the collection requirements on respondents can be properly assessed. Currently the Office of the Solicitor is soliciting comment concerning the proposed extension of the information collection request (ICR) for applications to obtain awards in administrative proceedings subject to the Equal Access to Justice Act.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DATES: Written comments must be submitted by September 15, 1998.

ADDRESSES: Comments are to be submitted to Department of Labor/The Office of Solicitor Attn: Peter Galvin, 200 Constitution Avenue, N.W. (Room N–2428) Washington D.C. 20210). Written comments limited to 10 pages or fewer may be transmitted by facsimile to (202) 219–6896.

FOR FURTHER INFORMATION CONTACT: Contact Peter Galvin, The Office of Solicitor, telephone (202) 219–8065 or Todd Owen at (202) 219–5096 (ext 143). Copies of the referenced information collection request are available in room N–1301, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. A copy of the ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ({202} 219–5096 Ext. 143) or by E-Mail to Owen-Todd@dol. gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Access to Justice Act provides for the award of fees and expenses to certain parties involved in administrative proceedings with the United States. The statute requires, at 5 U.S.C. sec. 504(a)(2), that a party seeking an award of fees and other expenses in a covered administrative proceeding must submit to the agency ''an application which shows that the party is prevailing party and is eligible to receive an award'' under the Act. The Department of Labor's regulations implementing the Equal Access to Justice Act contain a subpart which specifies the contents of applications for an award, 29 CFR Part 16, Subpart B.

II. Current Actions

This notice requests an extension of the current Office of Management and Budget (OMB) approval of the paperwork requirements for the contents of applications for an award under the Equal Access to Justice Act.

Type of Review: Extension.

Agency: Office of the Solicitor.

Title: Equal Access to Justice Act.

OMB Number: 1225–0013.

Affected Public: Individuals or household; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Total Respondents: 10.

Frequency: On occasion.

Total Responses: 10.

Average Time per Response: 5 hours.

Estimated Total Burden Hours. 1 hour.

Total Annualized capital/startup costs: 0.

Total initial costs: 0.

Comments submitted in response to this notice will be summarized and may be included in the request for OMB approval of the final information collection request. The comments will become a matter of public record.

Dated: July 13, 1998.

Robert A. Shapiro,

Associate Solicitor for Legislation and Legal Counsel.

[FR Doc. 98–19111 Filed 7–16–98; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be

enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and nor providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis—Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA980001 (Feb. 13, 1998)
MA980002 (Feb. 13, 1998)
MA980003 (Feb. 13, 1998)
MA980005 (Feb. 13, 1998)
MA980007 (Feb. 13, 1998)
MA980010 (Feb. 13, 1998)
MA980012 (Feb. 13, 1998)
MA980012 (Feb. 13, 1998)
MA980015 (Feb. 13, 1998)
MA980017 (Feb. 13, 1998)
MA980018 (Feb. 13, 1998)
MA980019 (Feb. 13, 1998)
MA980020 (Feb. 13, 1998)
MA980021 (Feb. 13, 1998)
Rhode Island
RI980001 (Feb. 13, 1998)
RI980002 (Feb. 13, 1998)
Vermont
VT980025 (Feb. 13, 1998)

Volume II

Delaware
DE980001 (Feb. 13, 1998)
DE980002 (Feb. 13, 1998)
DE980004 (Feb. 13, 1998)
DE980005 (Feb. 13, 1998)
DE980009 (Feb. 13, 1998)

Volume III

Georgia
GA980003 (Feb. 13, 1998)
GA980004 (Feb. 13, 1998)
GA980032 (Feb. 13, 1998)
GA980033 (Feb. 13, 1998)
GA980050 (Feb. 13, 1998)
GA980065 (Feb. 13, 1998)
GA980073 (Feb. 13, 1998)
GA980085 (Feb. 13, 1998)
GA980086 (Feb. 13, 1998)
GA980087 (Feb. 13, 1998)
GA980088 (Feb. 13, 1998)

Volume IV

Illinois
IL980016 (Feb. 13, 1998)
Wisconsin
WI980020 (Feb. 13, 1998)
WI980021 (Feb. 13, 1998)
WI980030 (Feb. 13, 1998)

Volume V

Iowa
IA980004 (Feb. 13, 1998)
IA980005 (Feb. 13, 1998)
IA980017 (Feb. 13, 1998)
Nebraska
NE980007 (Feb. 13, 1998)
NE980009 (Feb. 13, 1998)
NE980010 (Feb. 13, 1998)
NE980011 (Feb. 13, 1998)

Volume VI

Colorado
CO98001 (Feb. 13, 1998)
CO980002 (Feb. 13, 1998)
CO980003 (Feb. 13, 1998)
CO980005 (Feb. 13, 1998)
CO980006 (Feb. 13, 1998)
CO980007 (Feb. 13, 1998)
CO980008 (Feb. 13, 1998)
CO980009 (Feb. 13, 1998)
CO980010 (Feb. 13, 1998)
CO980011 (Feb. 13, 1998)
CO980012 (Feb. 13, 1998)
CO980016 (Feb. 13, 1998)
CO980018 (Feb. 13, 1998)
CO980021 (Feb. 13, 1998)
CO980022 (Feb. 13, 1998)
CO980023 (Feb. 13, 1998)
CO980024 (Feb. 13, 1998)
CO9800025 (Feb. 13, 1998)
Idaho
ID980001 (Feb. 13, 1998)
ID980003 (Feb. 13, 1998)
ID980013 (Feb. 13, 1998)
ID980014 (Feb. 13, 1998)
Oregon
OR980001 (Feb. 13, 1998)
OR980004 (Feb. 13, 1998)
OR980017 (Feb. 13, 1998)

Volume VII

Arizona
AZ980002 (Feb. 13, 1998)
AZ980004 (Feb. 13, 1998)
AZ980016 (Feb. 13, 1998)
AZ980017 (Feb. 13, 1998)
CA980029 (Feb. 13, 1998)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February)

which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. This 9th Day of July, 1998.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–18828 Filed 7–16–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Census of Fatal Occupational Injuries

AGENCY: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''Census of Fatal Occupational Injuries.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before September 15, 1998.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue NE., Washington, D.C. 20212. For further information contact Ms. Kurz on 202–605–7628 (this is not a toll free number.

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Labor Statistics (BLS) was delegated responsibility by the Secretary of Labor for implementing Section 24(a) of the Occupational Safety and Health Act of 1970. This section states the ''the Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses * * *''

Prior to the implementation of the Census of Fatal Occupational Injuries (CFOI), BLS generated estimates of occupational fatalities for private sector employers from a sample survey of about 280,000 establishments. Studies showed that occupational fatalities were underreported in those estimates as well as those compiled by regulatory, vital statistics, and workers' compensation systems. Estimates varied widely between 3,000 and 10,00 annually. In addition, information needed to develop prevention strategies was often missing form these earlier programs.

In the late 1980s, the National Academy of Sciences study, *Counting Injuries and Illnesses in the Workplace,* and the report, *Keystone National Policy Dialogue on Work-Related Illness and Injury Recordkeeping,* emphasized the need for BLS to compile a complete roster of work-related fatalities because of concern over the accuracy of using a sample survey to estimate the incidence of occupational fatalities. These studies also recommended the use of all available data sources to compile detailed information for fatality prevention efforts.

BLS tested the feasibility of collecting fatality data in this manner in 1989 and 1990. The resulting CFOI was implemented in 32 States in 1991. National data covering all 50 States and the District of Columbia was compiled and published for 1992–1996, approximately eight months after each calendar year.

The CFOI compiles comprehensive, accurate, and timely information on work-injury fatalities needed to develop effective prevention strategies. The system collects information concerning the incident, demographic information on the deceased, and characteristics of the employer.

Data are used to:

—develop employee safety training programs;
—develop and assess the effectiveness of safety standards;
—conduct research for developing prevention strategies; and
—compare fatalities between States.

In addition, States use the data to publish State reports, to identify State-specific hazards, to allocate resources for promoting safety in the workplace, and to evaluate the quality of work life in the State.

II. Current Actions

In 1996, 6,112 workers lost their lives as a result of injuries received on the job. This official systematic, verifiable count mutes controversy over the various counts from different sources. The CFOI count has been adopted by the National Safety Council and other organizations as the sole source of a comprehensive count of fatal work injuries for the U.S. If this information were not collected, the confusion over the number and patterns in fatal occupational injuries would continue, thus hampering prevention efforts. By providing timely occupational fatality data, the CFOI program provides safety and health managers the information necessary to respond to emerging workplace hazards.

In 1997, BLS Washington staff responded to over 3,000 requests for CFOI data from various organizations. (This figure excludes requests received by the States for State-specific data.) In addition, BLS Washington staff responded to numerous requests from safety organizations for staff members to participate in safety conferences and seminars. The CFOI research file, made available to safety and health groups, is being used by 50 organizations to conduct studies on specific topics, such as protective equipment use, forklift injuries, tractor-trailer tipovers, powerline electrocutions, homicides, construction industry falls, highway construction, and logging and forestry fatalities. (A current list of research articles and reports that include CFOI data can be found in BLS Report 922,

dated June 1998, Appendix H. Copies of this report are available upon request.)

Type of Review: Revision.

Agency: Bureau of Labor Statistics.

Title: Census of Fatal Occupational Injuries.

OMB Number: 1220–0133.

Frequency: On Occasion.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit-institutions, Farms, Federal Government, State, Local or Tribal Government.

Number of Respondents: 2,665.

Estimated Time Per Response: 11 Minutes.

Total Burden Hours: 5,000 Hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

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

Signed at Washington, DC, this 13th day of July, 1998.

Karen A. Krein,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 98–19112 Filed 7–16–98; 8:45 am]

BILLING CODE 4510–24–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–095]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Lantis Laser, Inc., has applied for a partially exclusive license to practice the invention disclosed in NASA Case No. LAR–15564–1–SB, entitled, ''Method of Controlling Laser Wavelength(s),'' for which a U.S. Patent Application was filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Langley Research Center.

DATES: Responses to this notice must be received by September 15, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Robin W. Edwards, Patent Attorney, NASA Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001. Telephone (757) 864–3230; fax (757) 864–9190.

Dated: July 13, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–19080 Filed 7–16–98; 8:45 am]

BILLING CODE 7501–01–P

NATIONAL SCIENCE FOUNDATION

National Science Foundation Proposal/Award Information—Grant Proposal Guide; Submission for OMB Review: Comment Request

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 National Science Foundation (NSF) will publish periodic summaries of proposed projects. Such a notice was published at **Federal Register**, 6393, dated May 14, 1998. No comments were received. This material is being submitted for OMB review. Send any written comments to Desk Officer, OMB, 3145–0058, OIRA, Office of Management and Budget, Washington, DC 20503. Written comments should be received by August 14, 1998.

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 on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed project. ''National Science Foundation Proposal/Award Information—Grant Proposal Guide.'' The mission of the NSF are to: strengthen its ability to support research in all areas of science and engineering; and promote innovative science and engineering education programs that can better prepare the Nation to meet the challenges of the future. The foundation is also committed to ensuring the Nation's supply of scientists, engineers, and science educators. In its role as leading Federal supporter of science and engineering, NSF also has an important role in national science policy planning.

The information collected is used to help the Foundation fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific an engineering disciplines. NSF receives more than 30,000 proposals annually for new or renewal support for research, and math/science/engineering education projects, and makes approximately 10,000 new awards. This support is made primarily through grants contracts, and other agreements awarded to approximately 2,800 colleges, universities, academic consortia, nonprofit institutions, and small businesses. The awards are based mainly on evaluations of proposal merit submitted to the Foundation (see OMB Clearance No. 3145–0060).

The Foundation has a continuing commitment to monitor the operations of its review and award processes to identify and address excessive reporting burdens. The Foundation is also committed to monitor and identify any real or apparent inequities based on gender, race, ethnicity, or handicap of the proposed principal investigator(s)/project director(s) or co-principal investigator(s)/co-project director(s). The collection of this information is a part of the regular submission of proposals to the Foundation.

Dated: July 14, 1998.

Mary Lou Higgs,

Acting NSF Clearance Officer.

[FR Doc. 98–19072 Filed 7–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture & Industrial Innovation; Notice of Meeting

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During the period of August 12–September 30, 1998, the Special Emphasis Panel in Design, Manufacture & Industrial Innovation (1194) will be holding panel meetings to review and evaluate Small Business Innovation Research (SBIR) proposals. All meetings will be held at the National Science Foundation. The dates, topics and areas of proposals are as follows:

Date	Topic and area
August 6–7, 1998	Topic 23, Mechanics and Materials.

Date	Topic and area
August 12, 1998	Topic 21, Design Manufacture and Industrial Innovation (7 panels).
August 12, 1998	Topic 20 & 27, Electrical and Communications Systems and Microelectronics Manufacturing.
August 13, 1998	Topic 20, Electrical and Communications Systems.
August 14, 1998	Topic 27, Microelectronics Manufacturing.
August 17, 1998	Topic 20, Electrical and Communications Systems.
August 19, 1998	Topic 14, Social, Behavioral and Economic Research.
	Topic 26, Next Generation Vehicles (3 panels).
August 20, 1998	Topic 26, Next Generation Vehicles (3 panels).
August 20, 1998	Topic 20, Electrical and Communications Systems.
August 21, 1998	Topic 20, Electrical and Communications Systems.
August 31, 1998	Topic 3, Materials Research (2 panels).
September 1–2, 1998	Topic 25, Education and Human Resources (6 panels).
September 9, 1998	Topic 20, Electrical and Communications Systems.
	Topic 27, Microelectronics Manufacturing.
September 14, 1998	Topic 2, Chemistry (4 panels).
	Topic 13, Biological Infrastructure.
September 15, 1998	Topic 2, Chemistry (4 panels).
	Topic 13, Biological Infrastructure.
September 18, 1998	Topic 23, Civil Mechanical Systems.
September 25, 1998	Topic 22, Chemical and Transport Systems (2 panels).

Times: 8:30 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meetings: Closed.

SBIR Program Contact Person: Cheryl Albus, Program Manager, DMII, Room 590, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Telephone: (703) 306–1390.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Small Business Innovation Research (SBIR) Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–19059 Filed 7–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Geosciences (1756).

Date and Time: August 13–14, 1998; 8:30 a.m.–5:00 p.m.

Place: Room 730, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Sunanda Basu (703) 306–1529 and Dr. Robert M. Robinson (703) 306–1531, Program Directors, Division of Atmospheric Sciences, National Science Foundation, 4201 Wilson Boulevard, Room 775, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Coupling, Energetics, and Dynamics of Atmospheric Regions (CEDAR) and Coupling, Energetics, and Dynamics of Atmospheric Regions (CEDAR)/Thermosphere-Ionosphere Electrodynamics General Circulation Model (TIMED) proposals as part of the selection process for awards.

Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: July 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–19060 Filed 7–16–98; 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 & Time: August 5–7, 1998: 8:00 am to 5:00 pm.

Place: Room 770, National Science Foundation, 4201 Wilson Boulevard Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Linda Duguay, Program Director, Arctic Natural Sciences Program, Office of Polar Programs, Room 755 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 Natural Sciences Interdisciplinary proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: July 13, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–19061 Filed 7–16–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing on Marine Accident

The National Transportation Safety Board will convene a public hearing beginning at 9:00 a.m. local time on Thursday, July 23, 1998, at the Adam's Mark Hotel, 4th & Chestnut Street, St.

Louis, Missouri. For more information, contact Leon Katcharian Office of Marine Safety at (202) 314–6458 or Terry Williams, NTSB Office of Public Affairs at (202) 314–6100.

Dated: July 14, 1998.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 98–19105 Filed 7–16–98; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–16 (50–338/339]

Virginia Electric and Power Co. and Old Dominion Electric Cooperative; North Anna Independent Spent Fuel Storage Installation; Exemption

I

Virginia Electric and Power Company (Virginia Power) and Old Dominion Electric Cooperative (collectively, the licensee) hold Materials License SNM–2507 for receipt and storage of spent fuel from the North Anna Power Station at an independent spent fuel storage installation (ISFSI) located on the North Anna Power Station site. The facility is located in Louisa County, Virginia.

II

Pursuant to 10 CFR 72.7, the Nuclear Regulatory Commission (NRC) may grant exemptions from the requirements of the regulations in 10 CFR Part 72 as it determines are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

Section 72.82(e) of 10 CFR Part 72 requires each licensee to provide a report of preoperational test acceptance criteria and test results to the appropriate NRC Regional Office with a copy to the Director, Office of Nuclear Material Safety and Safeguards, at least 30 days prior to receipt of spent fuel or high-level radioactive waste for storage in an ISFSI. The purpose of the 30-day waiting period is to allow NRC an opportunity to review test results prior to initial operation of the ISFSI. If an exemption from the requirement of 10 CFR 72.82(e) for a 30-day waiting period was granted, the licensee still would be required to submit the necessary report. However, with an exemption the licensee could start receiving fuel at the ISFSI before the end of the 30-day period.

III

By letter dated June 12, 1998, the licensee requested an exemption, pursuant to 10 CFR 72.7, from the requirement of 10 CFR 72.82(e) to submit the preoperational test acceptance criteria and test results report to NRC at least 30 days prior to receipt of fuel at the ISFSI. Specifically, the licensee requested to submit the report at least 3 days prior to receipt of fuel at the ISFSI. The licensee's exemption request to reduce the 30-day waiting period was based on the licensee's need to assure the availability of adequate storage space in the North Anna spent fuel pool to support a refueling outage of North Anna Power Station, Unit 1, in September 1998. To meet that schedule, spent fuel must be removed from the pool and loaded into a dry storage cask prior to the placement of new fuel into the spent fuel pool in late July 1998. Weather-related delays have hampered completion of construction and testing of the ISFSI prior to the end of June 1998. Thus, completion of construction and testing will occur less than 30 days prior to the need to load the first cask and transport it to the ISFSI.

NRC conducted numerous inspections of the North Anna ISFSI during its construction, as documented in part in NRC Inspection Report 50–338/97–09, 50–339/97–09, 72–16/97–03 and Inspection Report No. 50–338/97–11, 50–339/97–11, 72–16/97–04. NRC staff also observed selected portions of the licensee's preoperational dry run and walkthrough activities which were conducted between June 8 and 18, 1998.

By letter dated June 30, 1998, as supplemented by letter dated July 7, 1998, the licensee submitted its report of preoperational test acceptance criteria and test results. The preoperational tests conducted by the licensee included, among other things, the actual exercise of the licensee's written procedures for loading and unloading the storage casks. The licensee reviewed the results of these tests and made changes as necessary to affected procedures. During its onsite inspections in June 1998, NRC observed the licensee's validation of the acceptability of these procedures and is satisfied with the results.

IV

As discussed in the above paragraphs and based on its oversight and inspection of Virginia Power's ISFSI preoperational testing activities, NRC finds that Virginia Power has satisfactorily addressed all of the outstanding safety issues associated with cask loading, handling, and storage. The results of the NRC's activities described above confirm there is adequate assurance that the ISFSI can safely perform its intended function and that Virginia Power has the necessary equipment and procedures in place to safely conduct activities associated with storing spent fuel at the ISFSI.

Accordingly, NRC has determined in accordance with 10 CFR 72.7 that this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, NRC hereby grants the licensee an exemption from the 30-day waiting period required by 10 CFR 72.82(e) as requested by the licensee in its letter dated June 12, 1998.

The documents related to this proposed action are available for public inspection and for copying (for a fee) at the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555 and at the Local Public Document Room located at the University of Virginia, Alderman Library, Charlottesville, Virginia 22903.

Pursuant to 10 CFR 51.32, NRC has determined that granting this exemption will have no significant impact on the quality of the human environment (63 FR 36277).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 9th day of July, 1998.

For the Nuclear Regulatory Commission.

William F. Kane,

Director,

Spent Fuel Project Office,

Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98–19087 Filed 7–16–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATES: Friday, July 17, 1998.

PLACE: NCR Headquarters, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of July 13

Friday, July 17

9:30 a.m.
Public Meeting on Stakeholders' Concern (Public Meeting)
(Contact: Annette Vietti-Cook, 301–415–1969)
(Location: ACRS Conference Room)
(Two White Flint North, Room T2B3)

11:30 a.m.
Affirmation Session (Public Meeting)
*(Please Note: This item will be affirmed immediately following the conclusion of the preceding meeting.)
a: Qivera Mining Company—

Commission Review of LBP–97–20
Location: ACRS Conference Room—Tentative)
(Two White Flint North, Room T2B3)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http:/www.nrc. gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: July 14, 1998.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 98–19214 Filed 7–15–98; 11:39 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 23312; 812–10824]

CypressTree Asset Management Corporation, Inc., North American Floating Income Fund, Inc., CypressTree Investment Management Company, Inc., and CypressTree Funds Distributors, Inc.; Notice of Application

July 10, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicants request an order under Section 6(c) granting an exemption from Sections 18(c) and 18(i) of the Act and rule 23c–3 under the Act, and under Section 17(d) of the Act and rule 17d–1 under the Act, to permit certain registered closed-end investment companies to issue multiple classes of shares, impose distribution and service fees, and early withdrawal charges. Applicants also request an amendment to a prior order.

APPLICANTS: CypressTree Asset Management Corporation, Inc. (''CAM''), North American Senior Floating Rate Fund, Inc. (the ''Fund''), and CypressTree Investment Management Company (''CypressTree''), and CypressTree Funds Distributors, Inc. (''Distributors'').

FILING DATES: The application was filed on October 22, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected 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 request should be received by the SEC by 5:30 p.m. on August 4, 1998, 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 who wish to be notified of a hearing may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: 125 High Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a few at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. The Fund is a closed end management investment company registered under the Act and organized as a Maryland corporation. CAM, an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), will serve as investment adviser to the Fund. CAM will enter into a sub-advisory agreement with CypressTree, an investment adviser registered under the Advisers Act, pursuant to which CypressTree will select the investments made by the Fund. Distributors, a broker-dealer registered under the Securities Exchange Act of 1934 (the ''Exchange Act''), will distribute the Fund's shares. Applicants request that the order also apply to any other registered closed-end management investment company for which CAM or CypressTree or any entity controlling, controlled by, or under control with CAM or CypressTree acts as investment adviser, sub-investment adviser, principal underwriter, or administrator.[1]

2. The Fund's investment objective will be to provide as high a level of current income as is consistent with the preservation of capital. The Fund will invest primarily in senior secured floating rate loans made by commercial banks, investment banks, and finance companies to commercial and industrial borrowers (''Loans''). Under normal market conditions, the Fund will invest at least 80% of its total assets in Loans. Up to 20 percent of the Funds's total assets may be held in cash, invested in investment grade short-term and medium-term debt obligations, or invested in unsecured senior floating rate loans determined by CypressTree to have a credit quality at least equal to the loans.

3. The Fund will continuously offer its shares to the public at net asset value (plus a sales load in certain cases as discussed below). Applicants were granted an order permitting the Fund and certain other registered closed-end investment companies to make monthly repurchase offers in reliance on rule 23c–3 under the Act (''Prior Order'').[2]

4. The Fund expects to offer three classes of shares. Class A Shares may be subject to a front-end sales charge. Class B Shares and Class C Shares will be offered without a front-end sales charge, but Shares accepted for repurchase that have been held for less than a certain period of time will be subject to early withdrawal charges (''EWCs'') payable to Distributors.[3] After ten years, Class B Shares will automatically convert to

[1] Any such investment company relying on this relief will do so in a manner consistent with the terms and conditions of this application. Applicants represent that each investment company presently intending to rely on the relief requested in this application is listed as an applicant.

[2] *CypressTree Asset Management Corporation et al.*, Investment Company Act Release Nos. 23020 (February 4, 1998) and 23055 (March 3, 1998) (order). Applicants request to amend the Prior Order to extend the relief granted in the Prior Order to any other registered closed-end investment company for which CAM or CypressTree or any entity controlling, controlled by or under common control with CAM or CypressTree acts as administrator or sub-investment adviser.

[3] Class B Shares will be subject to EWCs that decline over time to 0% after the end of the fourth year that a shareholder owns Class B Shares. Class C Shares will be subject to early withdrawal charges of 1% during the first year that a shareholder owns Class C Shares.

Class A Shares, and after eight years, Class C Shares will automatically convert to Class A Shares. Class A, Class B, and Class C Shares will be subject to an annual service fee of up to .25% of net assets. Class B and Class C Shares also will be subject to an annual distribution fee of up to .50% of net assets. Applicants represent that all of these fees will comply with the requirements of Rule2830(d) of the NASD Conduct Rules as if the Fund were an open-end investment company. Applicants also represent that the Fund intends to disclose in its prospectus the fees, expenses, and other characteristics of each class of shares offered for sale, as is required for open-end multi-class funds under Form N1–A.

5. All expenses incurred by the Fund will be allocated among the various classes of shares based on the net assets of the Fund attributable to each class. Distribution fees, service fees, and incremental expenses that may be attributable to a particular class of shares, including transfer agent fees, printing and postage expenses, state and federal registration fees, administrative fees, legal fees, will be charged directly to the net assets of a particular class. Expenses of the Fund allocated to a particular class of shares will be borne on a pro rata basis by each outstanding share of that class. The Fund may crate additional classes of shares in the future that may have different terms from Class B, Class C, and Class A Shares.

6. The Fund may waive the EWCs for certain categories of shareholders or transactions to be established in the future. With respect to any waiver of, scheduled variation in, or elimination of the EWC, the Fund will comply with rule 22d–1 under the Act as if the Fund were an open-end investment company.

7. The Fund may offer its shareholders an exchange feature under which shareholders of the Fund may exchange their shares for shares of the same class of other funds in the North American Group of investment companies. Any exchange option will comply with rule 11a–3 under the Act as if the Fund were an open-end investment company subject to that rule. In complying with rule 11a–3, the Fund will treat the EWCs imposed on Class B Shares and Class C Shares as if they were contingent deferred sales charges (''CDSCs'').

Applicants' Legal Analysis

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Fund may be prohibited by section 18(c).

2. Section 18(i) of the Act provides that each share of stock issued by a registered management company shall be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Fund may violate section 18(i) because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Rule 23c–3(b)(1) under the Act provides that an interval fund may deduct from repurchase proceeds only a repurchase fee, not to exceed two percent of the proceeds, that is reasonably intended to compensate the fund for expenses directly related to the repurchase. Applicants state that the imposition of an EWC on shares tendered for repurchase that have been held for less than a specified period may violate rule 23c–3(b)(1).

4. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

5. Applicants request an exemption under section 6(c) of the Act from sections 18(c) and 18(i) of the Act and rule 23c–3(b)(1) to permit multiple classes of shares of the Fund and the imposition of EWCs.

6. Applicants believe that the proposed allocation of expenses and voting rights among multiple classes in equitable and would not discriminate against any group of Fund shareholders. Applicants submit that the proposed arrangements would permit the Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that their proposal does not raise the concerns underlying section 18 to any greater degree than open-end investment companies' multiple class systems that are permitted by rule 18f–3 under the Act. Applicants state that the Fund will comply with rule 18f–3 as if it were an open-end fund.

7. Applicants further state that EWCs are functionally similar to CDSCs that open-end investment companies may charge under rule 6c–10 under the Act. Applicants believe that EWCs may be necessary for Distributors to recover distribution costs and that EWCs may discourage shareholders from engaging in frequent trading, a practice that applicants believe imposes costs on other shareholders. Applicants will comply with rule 6c–10 under the Act as if the Fund were an open-end investment company.

8. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the SEC issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the SEC considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies, and purposes of the Act, and to the extent to which the participation is on basis different from or less advantageous than that of other participants.

9. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end funds to enter into distribution arrangements pursuant to rule 12b–1. Applicants also request an order under section 17(d) and rule 17d–1 to permit the Fund to impose asset-based distribution fees. Applicants have agreed to comply with rule 12b–1 as if the Fund were an open-end investment company.

Applicants' Condition

Applicants agree that any order granting the requested relief shall be subject to the following condition:

1. Applicants will comply with rules 18f–3, 12b–1, 6c–10, and 22d–1 under the Act and NASD Conduct Rule 2830(d), as amended from time to time, as if those rules apply to closed-end investment companies.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19049 Filed 7–16–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23311; 812–9982]

Morgan Stanley & Co. Incorporated; Notice of Application

July 10, 1998.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 12(d)(1) of the Act.

SUMMARY OF APPLICATION: Morgan Stanley & Co. Incorporated (''Morgan Stanley'') requests an order to amend a prior order that, among other things, permits registered investment companies to own a greater percentage of the total outstanding voting stock of the AJL PEPS Trusts for which Morgan Stanley serves, or will serve, as a principal underwriter (collectively, the ''Trusts'') than that permitted by section 12(d)(1) of the Act (''Prior Order'').[1] The requested order would permit companies that are excepted from the defintion of investment company under section 3(c)(1) or 3(c)(7) of the Act to own a greater percentage of the total outstanding voting stock of a Trust than that permitted by section 12(d)(1)(A) of the Act.

FILING DATES: The application was filed on May 5, 1998. Applicant has agreed to file an amendment, the substance of which is incorporated in this notice, during the notice period.

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 August 3, 1998, 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. Applicant, 1585 Broadway, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Brian T. Hourihan, Senior Counsel, at (202) 942–0526, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

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).

Applicant's Representations

1. The Trusts are limited-life, grantor trusts registered under the Act as nondiversified, closed-end management investment companies. Morgan Stanley serves, or will serve, as the principal underwriter for each Trust.

2. On October 16, 1996, the Commission issued the Prior Order. The Prior Order, among other things, permits registered investment companies to own a greater percentage of the total outstanding voting stock of the Trusts than that permitted by section 12(d)(1) of the Act.

Applicant's Legal Analysis

1. Section 12(d)(1)(A)(i) of the Act prohibits any registered investment company from owning more than 3 percent of the total outstanding voting stock of any other investment company, and any investment company from owning in the aggregate more than 3 percent of the total outstanding voting stock of any registered investment company. A company that is excepted from the definition of investment company under section 3(c)(1) or 3(c)(7) of the Act is deemed to be an investment company for purposes of section 12(d)(1)(A)(i) of the Act under sections 3(c)(1) and 3(c)(7)(D) of the Act.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1), if, and to the extend that, the exemption is consistent with the public interest and the protection of investors. Applicant requests that the Prior Order be amended to permit companies excepted from the definition of investment company under section 3(c)(1) and 3(c)(7) of the Act to rely on the exemption from section 12(d)(1)(A) of the Act provided by the Prior Order.

3. Applicant asserts that investment in the Trusts by companies relying on section 3(c)(1) or 3(c)(7) of the Act will not raise concerns under section 12(d)(1) of the Act for the same reasons as those given in the application for the Prior Order with respect to registered fund's investment in the Trusts. Applicant agrees that any company relying on section 3(c)(1) or 3(c)(7) of the Act that invests in the Trusts may not rely on this order unless it complies with the terms and conditions of the Prior Order. For these reasons, applicant believes that the requested relief meets the standards of section 12(d)(1)(J).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19051 Filed 7–16–98; 8:45 am]

BILLING CODE 8010–01–M

[1] *Morgan Stanley & Co. Incorporated*, Investment Company Act Release Nos. 2235 (Sept. 20, 1996) (notice) and 22284 (Oct. 16, 1996) (order).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26895; 70–9189]

Entergy Corporation; Order Authorizing the Issuance and Sale of Common Stock in Connection With the Adoption of the 1998 Equity Ownership Plan

July 10, 1998.

Entergy Corporation (''Entergy''), a registered holding company, located in New Orleans, Louisiana, has filed with this Commission an application-declaration under sections 6(a), 7 and 12(e) of the Public Utility Holding Company Act of 1935, as amended (''Act''), and rules 54, 62 and 65 under the Act. The Commission issued a notice of the filing on March 27, 1998 (HCAR No. 26852).

The Entergy Board of Directors (''Board'') has adopted the 1998 Equity Ownership Plan of Entergy Corporation and Subsidiaries (''Equity Plan''), subject to shareholder approval. The Equity Plan will be an amendment and restatement of Entergy's current Equity Ownership Plan which was approved by its stockholders in 1991. Awards granted under the Equity Plan are intended to qualify as performance based compensation under section 162(m) of the Internal Revenue Code of 1986, as amended.

Entergy proposes, through December 31, 2008, to grant Options, Restricted Shares, Performance Shares and Equity Awards, all as defined in the Equity Plan, and to issue or sell up to 12 million shares of its common stock, $0.01 par value (''Common''), under the Equity Plan. The purpose of the Equity Plan is to give certain designated officers and executive personnel (''Key Employees'') and outside directors an opportunity to acquire shares of Common to tie more closely their interests with those of Entergy's shareholders and to reward effective corporate leadership.

The Common will be available for awards under the Equity Plan, subject to adjustment for stock dividends, stock splits, recapitalizations, mergers, consolidations or other reorganizations. Shares of Common awarded under the Equity Plan may be either authorized but unissued shares or shares acquired

in the open market. Shares of Common covered by awards which are not earned, or which are forfeited for any reason, and Options which expire unexercised, will again be available for subsequent awards under the Equity Plan. To the extent that shares of Common previously held in a participant's name are surrendered upon the exercise of an Option or shares relating to an award are used to pay withholding taxes, the shares will become available for subsequent awards under the Equity Plan.

The Equity Plan will be administered by the Board's Personnel Committee, or any other committee designated by the Board (''Committee''), to the extent required to comply with rule 16b–3 under the Securities Exchange Act of 1934, as amended. The Committee will have the exclusive authority to interpret the Equity Plan. The Committee also will have the authority to select, from among Key Employees and outside directors of Entergy and its subsidiaries, those individuals to whom awards will be granted, to grant any combination of awards to any participants and to determine the specific terms and conditions of each award.

Entergy was authorized to solicit proxies from its stockholders for use at the 1998 annual shareholders meeting (''Meeting'') with respect to the approval of the Equity Plan, effective, as provided in rule 62(d) of the Act, on March 27, 1998 (HCAR No. 26852). The Equity Plan was approved by Entergy's shareholders at the Meeting, held on May 15, 1998.

Entergy represents that, except for rule 53(a)(1), the requirements of rule 53 are satisfied regarding Entergy's investments in exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs''), as defined in sections 32 and 33 of the Act. Entergy states that its aggregate investment in EWGs and FUCOs was equal to approximately 54% of its consolidated retained earnings, as defined in rule 53(a)(1), for the four quarters ended March 31, 1998 and, therefore, exceeds the 50% limitation contained in the rule. Entergy states that this is due to a decline in consolidated retained earnings, resulting primarily from a one-time windfall profits tax of $234 million imposed in 1997 by the government of Great Britain on London Electricity, a FUCO partially owned by Entergy.

Entergy states that, as of September 30, 1992, before Entergy commenced its investments in EWGs or FUCOs, Entergy's consolidated equity (including mandatorily redeemable preferred securities) to total capital ratio was 45.4%. Entergy states that, as of March 31, 1998, Entergy's consolidated capitalization consisted of 42.9% equity. On a *pro forma* basis, taking into consideration the transactions contemplated in this filing, this ratio would be 42.2%. In addition, Entergy further states that, with one exception, the credit ratings of debt issued by its subsidiaries remain at investment grade.[1] Entergy further notes that earnings from its investments in FUCOs and EWGs would have been positive in 1997 but for the one time windfall profits tax described above.

The Commission has considered the effect of the capitalization and earnings of Entergy's EWGs and FUCOs on the Entergy system, together with the impact of the proposed transactions. The facts and representations described above are sufficient, for purposes of granting the authority requested in this filing, to support a finding that the proposed transactions satisfy the standards of section 6(a) and 7

Fees and expenses in the estimated amount of $175,000 are expected to be incurred in connection with these transactions. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Due notice of the filing of the declaration has been given in the manner prescribed in rule 23 under the Act, and no hearing has been requested of or ordered by the Commission. On the basis of the facts in the record, it is found that the applicable standards of the Act and rules are satisfied and that no adverse findings are necessary.

It is ordered, under the applicable provisions of the Act and rules under the Act, that the amended declaration be permitted to become effective immediately, subject to the terms and conditions prescribed in rule 24 under the Act.

[1] Entergy notes that the credit rating assigned to debt issued by one of its utility subsidiaries, Entergy Gulf States Utilities, Inc. (''GSU''), other than its senior secured debt, is below investment grade. In March of 1995, Standard & Poors (''S&P'') lowered the ratings of GSU as follows: senior secured debt to triple 'B' minus from triple 'B'; senior unsecured debt and preferred stock to double 'B' from triple 'B' minus; and, preference stock to double 'B' from double 'B' plus. Thereafter, Moody's Investors Service (''Moody's'') downgraded GSU's First Mortgage Bonds to Baa3 from Baa2; debentures and senior unsecured pollution control bonds to Ba1 from Baa3; and preferred stock to Ba1 from Baa3. Both S&P and Moody's cited the River Bend Nuclear facility and the decision of the Texas Public Utilities Commission to reduce rates by $52.9 million along with the then pending legal uncertainties surrounding the Cajun bankruptcy, potential Riverbend writedowns, merger costs, and, regulatory proceeding costs.''

For the Commission, by the Division of Investment, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19050 Filed 7–16–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23313; 812–10664]

WRL Series Fund, Inc. and WRL Investment Management, Inc. Notice of Application

July 10, 1998.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: The order would permit applicants to enter into and materially amend subadvisory agreements without obtaining shareholder approval.

shareholdersapproval

APPLICANTS: WRL Series Fund, Inc. (the ''Fund'') and WRL Investment Management, Inc. (the ''Adviser'').

FILING DATES: The application was filed on May 13, 1997, and amended on April 2, 1998. Applicants have agreed to file an amendment, the substance of which is included in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may be 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 August 4, 1998, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549; Applicants, 201 Highland Avenue, Largo, Florida 33770–2597.

FOR FURTHER INFORMATION CONTACT: Brian T. Hourihan, Senior Counsel, at (202) 942–0526, or Christine Y. Greenless, Branch Chief, at (202) 942–

0564 (Division of Investment Management, Office of Investment Company Regulation).

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. The Fund, a Maryland corporation, is an open-end management investment company registered under the Act. The Fund currently consists of seventeen separate series (each a ''Portfolio''), each of which has its own investment objective and policies.[1] Shares of the Fund currently are sold only to separate accounts of Western Reserve Life Assurance Co. of Ohio (''Western Reserve''), PFL Life Insurance Company, and First AUSA Life Insurance Company, Inc. (''First AUSA'') to fund benefits under certain variable life insurance policies and variable annuity contracts.

2. The Adviser, registered under the Investment Advisers Act of 1940 (the ''Advisers Act''), serves as investment adviser to the Fund pursuant to an investment advisory agreement (''Advisory Agreement'').[2] Under the Advisory Agreement, the Adviser, subject to the supervision of the board of directors of the Fund (the ''Board''), selects and contracts with sub-advisers (''Sub-Advisers'') to provide each Portfolio with portfolio management. The Adviser also monitors and evaluates each Sub-Adviser's performance, and may recommend its termination. Each Sub-Adviser recommended by the Adviser is approved by the Board, including a majority of the directors who are not ''interested persons'' of the Fund, as defined in section 2(a)(19) of the Act (''Independent Directors''). The Adviser also provides the Fund and the Portfolios with overall administrative services. The Fund pays the Adviser a fee for its services with respect to each Portfolio.

3. The Adviser has entered into contracts (''Sub-Advisory Agreements'') with fourteen Sub-Advisers, each of which is registered as an investment adviser under the Advisers Act. Currently, sixteen Portfolios are advised by one Sub-Adviser and one Portfolio is advised by two Sub-Advisers. Subject to the general supervision of the Adviser and the Board, each Sub-Adviser makes the specific investment decisions for the Portfolio it advises and places orders to purchase or sell securities on behalf of that Portfolio. None of the Sub-Advisers has broader supervisory, management or administrative responsibilities with respect to a Portfolio or the Fund. The Adviser pays each Sub-Adviser out of the advisory fees it receives from each Portfolio.

4. Applicants request an order to permit the Adviser to enter into and materially amend Sub-Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to a Sub-Adviser that is an ''affiliated person'' of either the Fund or the Adviser, as defined in section 2(a)(3) of the Act, other than by reason of serving as a Sub-Adviser to one or more of the Portfolios (''Affiliated Sub-Adviser'').

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the Commission to exempt person or transactions from the provisions of the Act to the extent that 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 and provisions of the Act. Applicants request relief under section 6(c) from section 15(a) of the Act and rule 18f–2 under the Act. For the reasons discussed below, applicants believe the requested relief meets the standard of section 6(c).

3. Applicants assert that the Fund's investors rely on the Adviser for investment management, and except the Adviser to select and monitor one or more Sub-Advisers best suited to achieve a Portfolio's investment objective. Applicants represent that the Adviser has substantial experience in performing these functions for the Fund. Applicants submit that, consequently, from the perspective of an investor, the role of the Sub-Advisers is comparable to that of individual portfolio managers employed by other investment company advisory firms. Applicants thus contend that, without the requested relief, the Fund may be precluded from promptly and effectively employing Sub-Advisers best suited to the needs of the Portfolios. Applicants also that the Advisory Agreement will remain fully subject to the requirements of section 15 of the Act and rule 18f–2 under the Act, including the requirements for shareholder approval.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Adviser will not enter into a Sub-Advisory Agreement with any Affiliated Sub-Adviser without the Sub-Adviser Agreement with any Affiliated Sub-Adviser without the Sub-Advisory Agreement, including the compensation to be paid under the Agreement, being approved by the variable contract owners with assets allocated to any sub-account of a registered separate account for which the Portfolio serves as a funding medium.

2. At all times, a majority of the Board will be Independent Directors, and the nomination of new or additional Independent Directors will be within the discretion of the then-existing Independent Directors.

3. When a Sub-Adviser change is proposed for a Portfolio with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Directors, will make a separate finding, reelected in the Board's minutes, that the change is in the best interests of the Portfolio and the variable contract owners with assets allocated to any sub-account of a registered separate account for which the Portfolio serves as a funding medium, and does not involve a conflict of interest from which the Adviser or the Affiliated Sub-Adviser derives an inappropriate advantage.

4. The Adviser will provide general management and administrative services to the Fund and the Portfolios, including overall supervisory responsibility for the general management and investment of the Fund's securities portfolios, and, subject to review and approval by the Board, will: (i) Set each Portfolio's overall investment strategies, (ii) select Sub-Advisers, (iii) monitor and evaluate the performance of Sub-Advisers, (iv) allocate and, when appropriate,

[1] Applicants request that the relief also apply to future Portfolios, and to any registered open-end management investment company that in the future is advised by the Adviser, or any person controlling, controlled by, or under common control with the Adviser (''Future Fund''). All existing investment companies that currently intend to rely on the order have been named as applicants, and any Future Fund that relies on the order will comply with the terms and conditions in the application.

[2] The Adviser is a direct, wholly-owned subsidiary of Western Reserve, which, in turn, is wholly-owned by First AUSA. First AUSA is wholly-owned by AEGON USA, Inc., a financial services holding company, which, in turn, is a wholly-owned indirect subsidiary of AEGON nv, a Netherlands corporation.

reallocate a Portfolio's assets among its Sub-Advisers in those cases where a Portfolio has more than one Sub-Adviser, and (v) implement procedures reasonably designed to ensure that the Sub-Advisers comply with the Portfolio's investment objectives, policies, and restrictions.

5. Within 90 days of the hiring of any new Sub-Adviser, the Adviser will furnish the variable contract owners with assets allocated to any sub-account of a registered separate account for which the Portfolio serves as a funding medium with all information about the new Sub-Adviser that would be included in a proxy statement. The information will include any change in the disclosure caused by the addition of a new Sub-Adviser. The Adviser will meet this condition by providing the variable contract owners with an information statement meeting the requirement of Regulation 14C, Schedule 14C, and item 22 of Schedule 14A under the Securities Exchange Act of 1934.

6. The Fund will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, the Fund will hold itself out to the public as employing the management structure described in the application. The Fund's prospectus will prominently disclose that the Adviser has ultimate responsibility for the investment performance of the Portfolios due to its responsibility to oversee Sub-Advisers and recommend their hiring, termination, and replacement.

7. Before the Fund may rely on the requested order, the operations of each Portfolio as described in the application will be approved by a majority of the Portfolio's outstanding voting securities, as defined in the Act, pursuant to voting instructions provided by the variable contract owners with assets allocated to any sub-account of a registered separate account for which the Portfolio serves as a funding medium, or, in the case of a Future Fund whose shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 6 above, by the sole shareholder before offering shares of the Future Fund to the variable contract owners through a separate account.

8. No director or officer of the Fund or of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by the director or officer) any interest in a Sub-Adviser, except for: (i) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt securities of a publicly traded company that is either a Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–19052 Filed 7–16–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3103]

State of Iowa

As a result of the President's major disaster declaration on July 2, 1998, and amendments thereto, I find that the following counties in the State of Iowa constitute a disaster area due to damages caused by severe storms, tornadoes, and flooding beginning on June 13, 1998, and continuing: Audubon, Boone, Carroll, Cass, Chickasaw, Dallas, Fremont, Grundy, Guthrie, Hamilton, Hardin, Howard, Iowa, Jasper, Johnson, Keokuk, Louisa, Marion, Marshall, Mills, Montgomery, Muscatine, Page, Polk, Pottawattamie, Poweshiek, Shelby, Taylor, Wapello, and Washington. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 31, 1998, and for loans for economic injury until the close of business on April 2, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Adair, Adams, Appanoose, Benton, Black Hawk, Bremer, Butler, Calhoun, Cedar, Crawford, Davis, Des Moines, Fayette, Floyd, Franklin, Greene, Harrison, Henry, Jefferson, Linn, Lucas, Madison, Mahaska, Mitchell, Monroe, Ringgold, Sac, Scott, Story, Tama, Union, Van Buren, Warren, Webster, Winneshiek, and Wright Counties in Iowa; Cass, Douglas, Otoe, Sarpy, and Washington Counties in Nebraska; Atchison, Nodaway, and Worth Counties in Missouri; Fillmore and Mower Counties in Minnesota; and Henderson, Mercer, and Rock Island Counties in Illinois.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 310311. For economic injury the numbers are 992800 for Iowa; 992900 for Nebraska; 993000 for Missouri; 993400 for Minnesota; and 993500 for Illinois.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 9, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–19095 Filed 7–16–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3100]

State of Ohio

As a result of the President's major disaster declaration on June 30, 1998, and amendments thereto, I find that the following counties in the State of Ohio constitute a disaster area due to damages caused by severe storms, flooding, and tornadoes beginning on June 24, 1998 and continuing: Athens, Belmont, Coshocton, Franklin, Guernsey, Harrison, Jackson, Jefferson, Knox, Meigs, Monroe, Morgan, Muskingum, Noble, Ottawa, Perry, Pickaway, Richland, Sandusky, Tuscarawas, and Washington. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 29, 1998, and for loans for economic injury until the close of business on March 30, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified

date at the above location: Ashland, Carroll, Columbiana, Crawford, Delaware, Erie, Fairfield, Fayette, Gallia, Hocking, Holmes, Huron, Lawrence, Licking, Lucas, Madison, Morrow, Pike, Ross, Scioto, Seneca, Stark, Union, Vinton, and Wood Counties in Ohio, and Brooke, Hancock, Marshall, and Ohio Counties in West Virginia.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared under a separate declaration for the same occurrence.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 310011. For economic injury the numbers are 992100 for Ohio and 992200 for West Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 8, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–19093 Filed 7–16–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3101]

State of Vermont

As a result of the President's major disaster declaration on June 30, 1998, I find that Addison, Chittenden, Franklin, Lamoille, Orange, Rutland, Washington, and Windsor Counties in the State of Vermont constitute a disaster area due to damages caused by severe storms and flooding beginning on June 17, 1998, and continuing. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 29, 1998, and for loans for economic injury until the close of business on March 30, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bennington, Caledonia, Grand Isle, Orleans, and Windham Counties in Vermont; Essex and Washington Counties in New York; and Grafton and Sullivan Counties in New Hampshire.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 310106. For economic injury the numbers are 992300 for Vermont, 992400 for New York, and 992500 for New Hampshire.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 8, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–19096 Filed 7–16–98; 8:45 am]

BILLING CODE 8025–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3102]

State of West Virginia

As a result of the President's major disaster declaration on July 1, 1998, and an amendment thereto, I find that the following counties in the State of West Virginia constitute a disaster area due to damages caused by severe storms, flooding, and tornadoes beginning on June 26, 1998 and continuing: Braxton, Calhoun, Clay, Doddridge, Gilmer, Jackson, Kanawha, Lewis, Marion, Pleasants, Ritchie, Roane, Tyler, Wirt, and Wood. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on August 30, 1998, and for loans for economic injury until the close of business on April 1, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in West Virginia may be filed until the specified date at the above location: Boone, Fayette, Harrison, Lincoln, Mason, Monongalia, Nicholas, Putnam, Raleigh, Taylor, Upshur, Webster, and Wetzel.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared under a separate declaration for the same occurrence.

The interest rates are:

	Percent
Physical Damage:	
Homeowners with credit available elsewhere	7.000
Homeowners without credit available elsewhere	3.500
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.125
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster are 310211 for physical damage and 992600 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 8, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–19094 Filed 7–16–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), 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 approval. 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 (1) Brake Hose Manufacturers Identification was published on April 6, 1998 [63 FR 16854] and (2) 23 CFR Parts, Uniform Safety Program Cost Summary Form for Highway Safety Plan was published on April 15, 1998 [63 FR 18488].

DATES: Comments must be submitted on or before August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Robinson, NHTSA Information Collection Clearance Officer at (202) 366–9456.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration (NHTSA)

(1) Title: Brake Hose Manufacturers Identification.

OMB Control Number: 2127–0052.

Type of Request: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Abstract: Under the authority of the National Traffic and Motor Vehicle Safety Act of 1966, as amended, Title 15 United States Code 1932, Section 103, authorizes the issuance of Federal Motor Vehicle Safety Standards (FMVSS). The Act mandates that in issuing any Federal motor vehicle safety standards, the agency is to consider whether the standard is reasonable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed. Using this authority, Standard 106, Brake Hoses was issued. This standard specifies labeling and performance requirements for all motor vehicle brake hose assemblers, brake hoses and brake hose and fittings manufacturers for automotive vehicles. These entitles must register their identification marks with NHTSA to comply with this standard.

Estimated Annual Burden Hours: 30.

(2) Title: 23 CFR Parts Uniform Safety Program Cost Summary Form for Highway Safety Plan.

OMB Control Number: 2127–0003.

Type of Request: Extension of currently approved collection.

Affected Public: State, Local or Tribal Government.

Abstract: The Highway Safety Act of 1966 (23 U.S.C. 401 *et seq.*) established a formula grant program to improve highway safety in the States. As a condition of the grant, the Act provides that the States must meet certain requirements contained in 23 U.S.C. 402. Section 402(a) requires each State to have a highway safety program, approved by the Secretary of Transportation, which is designed to reduce traffic crashes and the deaths, injuries, and property damage resulting from those crashes. Section 402(b) sets forth the minimum requirements with which each State's highway safety program must comply. A 1987 amendment to the Highway Safety Act required the Secretary to determine, through a rulemaking process, those programs most effective in reducing crashes, injuries, and deaths, taking into account ''consideration of the States having a major role in establishing [such] programs.'' The Secretary was authorized to revise the rule from time to time. In accordance with this provision, the agencies have identified, over time, nine such programs, the ''National Priority Program areas: (1) Alcohol and other Drug Countermeasures, (2) Police Traffic Services, (3) Occupant Protection, (4) Traffic Records, (5) Emergency Medical Services, (6) Motor Safety, (7) Pedestrian and Bicycle Safety, and (8) Speed Control & (9) Roadway Safety. Under this program, States submit the Highway Safety Program and other documentation explaining how they intend to use the grant funds. In order to account for funds expended under these priority areas and other program areas, States are required to submit a Program Cost Summary. The Program Cost Summary is completed to reflect the State's proposed allocations of funds (including carry-forward funds) by program area, based on the projects and activities identified in the Highway Safety Plan. During the past several years, numerous steps have been taken to reduce the burden of paperwork on the States. The annual burden will remain low due to the minimum amount of documentation required to be provided has been substantially reduced. We have simplified this process even more by automating the Program Cost Summary.

Estimated Annual Burden Hours: 570.

ADDRESSES: Send comments, within 30 days, 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. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on July 10, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–19104 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (98–05–C–00–COS) to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Colorado Springs Airport, Submitted by the Colorado Springs Airport, Colorado Springs, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Colorado Springs Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before August 17, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Alan Wiechmann, Manager; Denver Airports District Office; Federal Aviation Administration; 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gary W. Green, A.A.E., Director of Aviation, at the following address: 7770 Drennan Road, Colorado Springs , CO 80916.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Colorado Springs Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Schaffer, (303) 342–1258, 26805 E. 68th Avenue, Suite 224; Denver, CO 80249–6361. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 98–05–C–00–COS to impose and use PFC revenue at Colorado Springs Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 10, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by Colorado Springs Airport, Colorado Springs, Colorado, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 13, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 2003.

Proposed charge expiration date: November 1, 2005.

Total requested for use approval: $12,414,906.

Brief description of proposed project: Glycol pretreatment, outfall system, and new glycol pond; Airport storm drainage improvements; Centerline and touchdown zone lighting; Runway end identification lights (REILS) for runway 12/30; Snow removal equipment; Canopy improvement program; Construction taxiway ''B'' extension, from taxiway ''B5'' to taxiway ''E''; Construct taxiway ''C'' north to taxiway ''D''; Apron roadway, glycol tank and ground equipment storage area.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Colorado Springs Airport.

Issued in Renton, Washington, on July 10, 1998.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 98–19098 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for waiver of compliance with certain requirements of the Federal railroad safety regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being sought and the petitioner's arguments in favor of relief.

Northeast Illinois Railroad Corporation

[FRA Waiver Petition No. WPS–98–1]

Northeast Illinois Railroad Corporation (METRA) seeks a permanent waiver of compliance from certain provisions of the Roadway Worker Protection Standards, 49 CFR Part 214, Subpart C. Metra seeks a waiver of 49 CFR 214.337(c)(3) which states:

(c) Individual train detection may be used to establish on-track safety only: * * *

(3) On track outside the limits of a manual interlocking, a controlled point, or a remotely controlled hump yard facility; * * *

Specifically, METRA requests relief that will permit a lone worker to perform inspections and minor repairs within an interlocking or control point utilizing Individual Train Detection (ITD) supplemented by a system termed Intelligent Train Approach Warning (ITAW). According to METRA, the ITAW will consist of a vibration sensitive pager-like device and a portable audible/visual device transported to the area where the lone worker is engaged in work. METRA indicates that the ITAW will be governed by a series of rules which will enhance and promote safety as the ITAW system never walks away, gets distracted or becomes involved in other human tendencies.

METRA desires to conduct tests of the ITAW system at two locations on their system during which all provisions of 49 CFR Part 214 relating to the protection of on-track workers will be strictly adhered to utilizing either foul time or look-out protection. METRA states ''only after the system's integrity and fail proof technologies have been tested and found to be fail safe 100% of the time will the provisions requested in the waiver be exercised.'' METRA has included with the petition a set of detailed rules and instruction for the operation and use of the ITAWS for the purpose of providing warning of approaching trains to roadway workers.

Interested parties are invited to participate in this proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number WPS–98–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning this proceeding are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's docket room located at 1120 Vermont Avenue, NW, Room 7051, Washington, DC 20005.

Issued in Washington, DC, on July 13, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–19103 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Revocation Notice Concerning General Agent Directives

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD) has reviewed all its files on Circular Letters to General Agents (CLs) and Operating Letters to General Agents (OLs). As a result of this review, MARAD has determined to revoke all

said Circular Letters to General Agents and Operating Letters to General Agents not heretofore terminated.

FOR FURTHER INFORMATION CONTACT: P. Jean Barile, Office of Ship Operations, Maritime Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 366–5776, facsimile (202) 366–3954.

SUPPLEMENTARY INFORMATION: CLs and OLs were identical letters sent to all, or multiple, General Agents and relating to the operation of Government vessels by private companies under General Agency Agreements. During the course of reviewing files for outstanding CLs and OLs, MARAD found that all had become obsolete in the context of current vessel operations procedures and arrangements with General Agents. MARAD has determined that none of the Circular Letters to General Agents and none of the Operating Letters to General Agents presently outstanding, and not heretofore revoked, have application to current ship operations functions of the Maritime Administration, or the National Shipping Authority, and they are hereby revoked.

By Order of the Maritime Administrator.

Dated: July 14, 1998.

Joel C. Richard,

Secretary.

[FR Doc. 98–19116 Filed 7–16–98; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20924]

Global Passenger Services, L.L.C.—Control—Bortner Bus Company, et al.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transactions.

SUMMARY: Global Passenger Services, L.L.C. (Global or applicant), a noncarrier, filed an application under 49 U.S.C. 14303 to acquire control of 20 motor passenger carriers, consisting of 15 existing subsidiaries—Bortner Bus Company (Bortner), C&D Transportation, Inc. (C&D), Comet Bus Lines Corporation (Comet), Connolly's Limousine Service, Inc. (Connolly's), Country & Western Tours, Inc. (C&W Tours), Franciscan Lines, Inc. (Franciscan), George Ku, Inc. (George Ku), Golden Touch Transportation, Inc. (GTT), Golden Touch Limousine of Florida, Inc. (GTT of FL), JJ Kelly Charter Bus Service Co. (JJ Kelly), The Palmeri Motor Coach Corporation (Palmeri), PROTRAV Services, Inc., d/b/a PROTRAV Charter Coach Services (PROTRAV Charter), PROTRAV Services, Inc. (PROTRAV Services), Santa Barbara Transportation Corporation (SBTC), and Tiger Air Express, Inc. (Tiger)—and 5 new target companies, Hemphill Brothers Coach Co., Inc. (Hemphill), Hansruedi and Marcia Muggli, d/b/a The Transportation Company (TTC), Pacific Explorer Lines, Inc. (Pacific), Stardust Executive Transportation, Inc. (Stardust), and Sunnyland Acquisition Corp. (SAC).[1] Persons wishing to oppose the application must follow the rules under 49 CFR part 1182, subpart B. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments are due by August 31, 1998. Applicant may reply by September 21, 1998. If no comments are received by August 31, 1998, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of comments referring to STB Docket No. MC–F–20924 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of comments to applicant's representative: Mark J. Andrews, Barnes & Thornburg, 1401 Eye Street, N.W., Suite 500, Washington, DC 20005.

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

SUPPLEMENTARY INFORMATION: Global, a Delaware limited liability company, was created on May 15, 1997. According to Global, it was unaware of the requirements of 49 U.S.C. 14303 prior to January 1998.[2] After reviewing its records, Global determined that interstate and/or intrastate passenger authority had been issued to 15 entities out of the 30 corporations that it directly or indirectly controls at this time. Upon discovering this unresolved control issue, Global filed an application to acquire control, through indirect stock ownership, of the existing subsidiaries'Bortner,[3] C&D,[4] Comet,[5] Connolly's,[6] C&W Tours,[7] Franciscan,[8] George Ku,[9] GTT,[10] GTT of FL,[11] JJ Kelly,[12] Palmeri,[13] PROTRAV

---

[1] Global incorporated SAC, a noncarrier, to acquire the assets of Sunnyland Stages, Inc. (SSI), a Missouri corporation and motor passenger carrier.

[2] Immediately upon its creation, Global acquired the shares of two regulated motor passenger carriers—one with interstate authority and one with intrastate authority. Because the initial acquisition of the shares of a single interstate carrier did not require Board authorization, Global assumed that the subsequent stock acquisition of additional interstate carriers required no Federal approval.

[3] Bortner is a Pennsylvania corporation. It holds federally issued operating authority in MC–111191 and intrastate operating authority in Ohio and Pennsylvania. Bortner provides charter and special operations between points in the United States (including Alaska and Hawaii).

[4] C&D is a Tennessee corporation. It holds federally issued operating authority in MC–191957. C&D provides charter and special operations between points in the United States (except Alaska and Hawaii).

[5] Comet is a Florida corporation. It holds federally issued operating authority in MC–231149. Comet provides charter and special operations between points in the United States (except Hawaii).

[6] Connolly's is a Pennsylvania corporation. It holds federally issued operating authority in MC–176826 and intrastate operating authority in Pennsylvania. Connolly's provides charter and special operations between points in the United States.

[7] C&W Tours is a Tennessee corporation. It holds federally issued operating authority in MC–263068. C&W provides charter and special operations between points in the United States.

[8] Franciscan is a California corporation. It holds federally issued operating authority in MC–140403 and intrastate operating authority in California. Franciscan provides charter and special operations between points in the United States (including Alaska, but excluding Hawaii).

[9] George Ku is a Pennsylvania corporation. It holds federally issued operating authority as a common and contract carrier in MC–31422 and intrastate operating authority in Ohio and Pennsylvania. George Ku provides charter and special operations between points in the United States (except Hawaii).

[10] GTT is a Delaware corporation. It holds federally issued operating authority as a contract carrier in MC–235493 and intrastate operating authority in Florida.

[11] GTT of FL, a wholly owned subsidiary of GTT, is a corporation that holds no interstate authority but is licensed by Dade County, FL, for intrastate passenger service. The fact that these operations appear to be entirely within the State of Florida is not determinative of Board jurisdiction. It is well settled that service within a single state may be interstate commerce and subject to our jurisdiction when there is a through ticket or some other arrangement between the involved carriers for through transportation to or from a point in another state. Also, if the participants to a finance transaction are motor carriers of passengers, subject to Board jurisdiction under 49 U.S.C. 13501, then under 49 U.S.C. 14303(f), they are subject to our exclusive and plenary jurisdiction in all matters relating to their consolidation, merger, and acquisition of control, and this extends to intrastate operating rights. *See Colorado Mountain Express, Inc. and Airport Shuttle Colorado, Inc., d/b/a Aspen Limousine Service, Inc.—Consolidation and Merger— Colorado Mountain Express,* STB Docket No. MC-F–20902 (STB served Feb. 28, 1997).

[12] JJ Kelly is a Florida corporation. It holds federally issued operating authority in MC–172787. It provides charter and special operations between points in the United States (except Alaska and Hawaii).

[13] Palmeria is a Pennsylvania corporation. It holds federally issued operating authority in MC–167547 and intrastate operating authority in New Jersey and Pennsylvania. It provides passenger service as a contract carrier between points in Tennessee and Kentucky, and charter and special operations between points in the United States (except Alaska and Hawaii).

Charter,[14] PROTRAV Services,[15] SBTC,[16] and Tiger[17] and of the target companies, Hemphill,[18] TTC,[19] Pacific,[20] Stardust,[21] and SAC.[22] According to Global, the stock of the target companies has been placed in voting trusts pending disposition of this proceeding.

Global submits that the instant transactions have not reduced and will not reduce competition in the bus industry or competitive options available to the traveling public. It also submits that it has no intention of changing the operations of any of the existing subsidiaries or target companies as a result of the approvals sought here. Global asserts that each of the subsidiaries and target companies faces substantial competition from other bus companies and transportation modes. It estimates that, at the end of 1997, its regular-route, charter and special operations accounted for approximately 0.54% of the relevant market for such services in the United States. It believes that its control of the target companies will increase that market share by only one-tenth of a percentage point.

Global also submits that its control of the subsidiaries and target companies has produced and will produce substantial benefits, including interest cost savings from restructuring of debt and reduced operating costs from Global's enhanced volume purchasing power. Specifically, Global claims that the carriers it acquires benefit from the lower insurance premiums it has negotiated and from volume discounts for equipment and fuel. Global also asserts that it improves the efficiency of all acquired carriers, while maintaining responsiveness to local conditions, by providing centralized services to support decentralized operational and marketing managers. Centralized support services are provided in such areas as legal affairs, accounting, purchasing, safety management, equipment maintenance, driver training, human resources, and environmental compliance. In addition, Global states that it facilitates vehicle sharing arrangements between acquired entities, so as to ensure maximum utilization and efficient operation of equipment. According to Global, the involved transactions offer ongoing benefits for employees of acquired carriers not only because of the efficiencies described above, but also because Global's policy is to honor all collective bargaining agreements of acquired carriers.

Global certifies that: (1) none of the involved subsidiaries or target companies has been assigned a safety rating of less than satisfactory by the U.S. Department of Transportation; (2) all involved carriers maintain sufficient liability insurance; (3) none of the involved carriers has been or is either domiciled in Mexico or owned or controlled by persons of that country; and (4) approval of the transactions will not significantly affect either the quality of the human environment or the conservation of energy resources. Additional information may be obtained from applicant's representative.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. The prior consummation of the transactions involving the 15 existing subsidiaries does not bar approval of the application under section 14303 if the evidence establishes that the transaction would be consistent with the public interest in other respects, and for the future.[23] Approval is granted in such circumstances when the record contains strong affirmative evidence of public benefits to be derived from the resulting control, warranting the view that the public should not be penalized by being deprived of those benefits. Moreover, in this case, the record shows an absence of intent to flout the law or of a deliberate or planned violation. *See Kenosha Auto Transport Corp.—Control,* 85 M.C.C. 731, 736 (1960).

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If opposing comments are timely filed, this finding will be deemed vacated and a procedural schedule will be adopted to reconsider the application. If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Global's control of the existing subsidiaries and the target companies is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective on August 31, 1998, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, SW, Suite 600, Washington, DC 20024; and (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: July 9, 1998.

[14] PROTRAV Charter is a California corporation. It holds federally issued operating authority in MC–227448 and intrastate operating authority in California. It provides charter and special operations between points in the United States (except Alaska and Hawaii).

[15] PROTRAV Services, a wholly owned subsidiary of PROTRAV Charter, is a corporation that holds no interstate authority but is licensed by Nevada for intrastate passenger service. For a discussion of the effect of intrastate operating authority, see *supra* note 11.

[16] SBTC is a California corporation. It holds federally issued operating authority in MC–198757 and intrastate operating authority in California. SBTC engages primarily in school transportation activities, which are not regulated.

[17] Tiger is a Missouri corporation. It holds federally issued operating authority as a common and contract carrier in MC–217893 and intrastate operating authority in Indiana and Missouri. It provides passenger service over certain regular routes in Arkansas, Missouri, and Oklahoma, and charter and special operations between points in the United States (except Alaska and Hawaii).

[18] Hemphill is a Tennessee corporation. It holds federally issued operating authority in MC–336635. It provides charter and special operations between points in the United States.

[19] TTC is a California corporation. It holds federally issued operating authority in MC–182176 and intrastate operating authority in California. It provides charter and special operations, beginning and ending at San Francisco and Mateo Counties, CA, and extending to points in Oregon, Washington, Nevada, Arizona, Utah, and New Mexico.

[20] Pacific is a California corporation. It holds federally issued operating authority in MC–251473 and intrastate operating authority in California. It provides charter and special operations between points in the United States (except Alaska and Hawaii).

[21] Stardust is a California corporation. It holds federally issued operating authority in MC–304399 and intrastate operating authority in California. It provides charter and special operations between points in the United States.

[22] SAC is a Delaware corporation. It is the transferee of SSI's federally issued operating authority in MC–52479 and intrastate operating authority in Missouri. It provides passenger service over certain regular routes in Arkansas and Missouri, and special and charter operations between points in the United States (except Hawaii). Because the acquisition of SSI has been structured as an asset transaction, Global reports that it has trusteed (presumably placed in trust) SAC, which will become a carrier upon its acquisition of SSI's assets.

[23] Global seeks *nunc pro tunc* approval of the control of the 15 existing subsidiaries that it already controls. While we are granting our tentative approval, the need for retroactive effect has been demonstrated. Global evidently recognizes that it should have sought our approval sooner but, under the circumstances, the Board does not intend to pursue enforcement actions against Global for the previously unauthorized common control.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19128 Filed 7–16–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33631]

Union Pacific Railroad Company; Trackage Rights Exemption; The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) from milepost 345.6, at Tower 55–UPRRX near Fort Worth, to milepost 217.3, near Temple, a distance of 128.3 miles in the State of Texas.[1]

The transaction was scheduled to be consummated on July 13, 1998.

The purpose of the trackage rights is to permit UP to use BNSF trackage while UP's trackage is out of service for maintenance.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33631, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served Joseph D. Anthofer, Esq., 1416 Dodge Street, No. 830, Omaha, NE 68179.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

[1] On July 6, 1998, UP filed a petition for exemption in STB Finance Docket No. 33631 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* wherein UP requests that the Board permit the overhead trackage rights arrangement described in the present proceeding to expire on July 31, 1998. That petition will be addressed by the Board in a separate decision.

Decided: July 13, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19129 Filed 7–16–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–57 (Sub–No. 45X)]

Soo Line Railroad Company; Abandonment Exemption; in Dakota County, MN

Soo Line Railroad Company (Soo) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon an approximately .62+/-mile line of its railroad on the Farmington Minnesota Line between milepost 143.73+/-to milepost 144.35+/-in Farmington, Dakota County, MN. The line traverses United States Postal Service Zip Code 55024.

Soo has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 16, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 27, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 6, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Larry D. Starns, Esq., Leonard, Street and Deinard Professional Association, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Soo has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 22, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Soo shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Soo's filing of a notice of consummation by July 17, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 13, 1998.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19130 Filed 7–16–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 10, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998 to be assured of consideration.

Departmental Offices/International Trade Data System (ITDS) Office

OMB Number: 1505–0162.

Form Number: Forms CF–3461, CF–3461–ALT, CF–7501, CF–7512 and CF–7533.

Type of Review: Extension.

Title: North American Trade Automation Prototype (NATAP) Data.

Description: The requested data is from volunteer trading community participants in the prototype test with the United States, Canada, and Mexico to improve the electronic exchange of data in the execution of North American land border commercial trade transactions.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 120.

Estimated Burden Hours Per Respondent: 3 minutes, 30 seconds.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 3,758 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19053 Filed 7–16–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 10, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998 to be assured of consideration.

U.S. Customs Service (CUS)

OMB Number: 1515–0081.

Form Number: Customs Forms 213.

Type of Review: Extension.

Title: Importer's Premises Visit, Significant Importation Report.

Description: The Customs Form 213 constitutes a summary report of an interview and findings of an Importer's Premises Visit by a Customs Officer. This collection ensures uniformity among importers. These interviews are conducted by Customs based on its responsibilities involving the appraisement and admissibility of merchandise.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 6,000 hours.

OMB Number: 1515–0207.

Form Number: None.

Type of Review: Extension.

Title: Articles Assembled Abroad with Textile Components Cut to Shape in the U.S.

Description: This collection of information enables Customs to ascertain whether the conditions and requirements relating to 9802.00.80, HTSUS, have been met.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 750 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Room 3.2.C, Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19054 Filed 7–16–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 7, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1601.

Revenue Procedure Number: Revenue Procedure 98–32.

Type of Review: Extension.

Title: EFTPS Programs for Reporting Agents.

Description: The Batch and Bulk Filer programs are used by Filers for electronically submitting enrollments, federal tax deposits, and federal tax payments on behalf of multiple taxpayers. These programs are part of the Electronic Federal Tax Payment System (EFTPS).

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 620.

Estimated Burden Hours Per Respondent/Recordkeeper: 83 hours, 41 minutes.

Frequency of Response: On occasion, Weekly, Monthly, Quarterly, Semi-annually, Annually, Biennially.

Estimated Total Reporting/ Recordkeeping Burden: 51,885 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19055 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 7, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0704.

Form Number: IRS Form 5471 and Related Schedules.

Type of Review: Revision.

Title: Information Return of U.S. Persons with Respect To Certain Foreign Corporations.

Description: Form 5471 and related schedules are used by U.S. persons that have an interest in a foreign corporation. The form and schedules are used to satisfy the reporting requirements of section 6035, 6038 and 6046 and the regulations thereunder pertaining to the involvement of U.S. persons with certain foreign corporations.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 43,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS
5471	81 hr., 24 min	25 hr., 20 min	31 hr., 22 min.
Schedule J	3 hr., 50 min	1 hr., 0 min	1 hr., 6 min.
Schedule M	26 hr., 33 min	6 min	32 min.
Schedule N	8 hr., 22 min	2 hr., 47 min	3 hr., 2 min.
Schedule O	10 hr., 46 min	30 min	42 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 7,281,930 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19056 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 10, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0865.

Form Number: IRS Form 8264.

Type of Review: Extension.

Title: Application for Registration of a Tax Shelter.

Description: Organizers of certain tax shelters are required to register them with the IRS using Form 8264. Other persons may have to register the tax shelter if the organizer doesn't. We use the information to give the tax shelter a registration number. Sellers of interests in the shelter furnish the number to investors who report the number on their tax returns.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—33 hr., 14 min.

Learning about the law or the form—2 hr., 41 min.

Preparing, copying, assembling, and sending the form to the IRS—3 hr., 20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 39,260 hours.

OMB Number: 1545–0881.

Form Number: IRS Form 8271.

Type of Review: Extension.

Title: Investor Reporting of Tax Shelter Registration Number.

Description: All persons who are claiming a deduction, loss, credit, or other tax benefit, or reporting any income on their returns from a tax shelter required to be registered (under Internal Revenue Code (IRC) 6111) must report the tax shelter registration number on that return. Form 8271 is used for this. We use the information to associate claimed benefits with the tax shelter and to determine if any compliance actions are needed.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 297,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 minutes

Learning about the law or the form—7 minutes

Preparing the form—17 minutes

Copying, assembling, and sending the form to the IRS—14 minutes

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 220,150 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19057 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 10, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before August 17, 1998, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0902.

Form Number: IRS Forms 8288 and 8288–-A.

Type of Review: Extension.

Title: U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests (8288); and Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests (8288–-A)

Description: Form 8288 is used by the withholding agent to report and transmit the withholding to IRS. Form 8288-A is used to validate the withholding and to return a copy to the transferor for his/her use in filing a tax return.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 4,918.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 8288	Form 8288–A
Recordkeeping	5 hr., 30 min	2 hr., 52 min.
Learning about the law or the form	4 hr., 40 min	12 min.
Preparing and sending the form to the IRS	4 hr., 58 min	15 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 108,751 hours.

OMB Number: 1545–0904.

Regulation Project Number: INTL–45–86 Final (TD 8125).

Type of Review: Extension.

3Title: Foreign Management and Foreign Economic Processes Requirements of a Foreign Sales Corporation.

Description: The regulations provide rules for complying with foreign management and foreign economic process requirements to enable Foreign Sales Corporations to produce foreign trading gross receipts and qualify for reduced tax rates. Rules are included for maintaining records to substantiate compliance. Affected public is limited to large corporations that export goods or services.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 11,001.

Estimated Burden Hours Per Recordkeeper: 2 hours.

Estimated Total Recordkeeping Burden: 22,001 hours.

OMB Number: 1545–1043.

Notice Number: Notices 88–30 and 88–132.

Type of Review: Extension.

Title: Diesel Fuel and Aviation Fuel Imposed at Wholesale Level (Notice 88–30); and Diesel and Aviation Fuel Taxes (Notice 88–132); Rules Effective 1/1/89.

Description: Producers of aviation fuel must be registered by the IRS to sell the fuel tax-free. Producers must also obtain certifications from their tax-free buyers.

Respondents: Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 3,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 6 minutes.

Frequency of Response: Quarterly.

Estimated Total Reporting/ Recordkeeping Burden: 3,850 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19058 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[INTL–79–91]

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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL–79–91 (TD 8573), Information Returns Required of United States Persons With Respect To Certain Foreign Corporations (§§ 1.6035–1, 1.6038–2 and 1.6046–1).

DATES: Written comments should be received on or before September 15, 1998 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 regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Information Returns Required of United States Persons With Respect To Certain Foreign Corporations.

OMB Number: 1545–1317.

Regulation Project Number: INTL–79–91.

Abstract: This regulation amends the existing regulations under sections 6035, 6038, and 6046 of the Internal Revenue Code. The regulation amends and liberalizes certain requirements regarding the format in which information must be provided for purposes of Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations. The regulation provides that financial statement information must be expressed in U.S. dollars translated according to U.S. generally accepted accounting principles and permits functional currency reporting of certain items.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

The burden for the collection of information is reflected in the burden for Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations.

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: July 10, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19033 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–43–92]

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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE–43–92 (TD 8619), Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions From Qualified Plans (§§ 1.401(a)(31)-1, 1.402(c)-2, 1.402(f)-1, 1.403(b)-2, and 31.3405(c)-1).

DATES: Written comments should be received on or before September 15, 1998 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 regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions From Qualified Plans.

OMB Number: 1545–1341.

Regulation Project Number: EE–43–92.

Abstract: This regulation implements the provisions of the Unemployment Compensation Amendments of 1992 (Pub. L. 102–318), which impose mandatory 20 percent income tax withholding upon the taxable portion of certain distributions from a qualified pension plan or a tax-sheltered annuity that can be rolled over tax-free to another eligible retirement plan unless such amounts are transferred directly to such other plan in a ''direct rollover'' transaction. These provisions also require qualified pension plans and tax-sheltered annuities to offer their participants the option to elect to make ''direct rollovers'' of their distributions and to provide distributees with a written explanation of the tax laws regarding their distributions and their option to elect such a rollover.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 10,323,926.

Estimated Time Per Respondent: 13 minutes.

Estimated Total Annual Burden Hours: 2,129,669.

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: July 10, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19034 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–50–92]

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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–50–92 (TD 8521), Rules To Carry Out the Purposes of Section 42 and for Correcting Administrative Errors and Omissions (§ 1.42–13).

DATES: Written comments should be received on or before September 15, 1998 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 regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Rules To Carry Out the Purposes of Section 42 and for Correcting Administrative Errors and Omissions.

OMB Number: 1545–1357.

Regulation Project Number: PS–50–92.

Abstract: This regulation concerns the Secretary of the Treasury's authority to provide guidance necessary or appropriate to carry out the purposes of Internal Revenue Code section 42, the low-income housing credit. The regulation also allows State and local housing credit agencies to correct administrative errors and omissions made in connection with allocations of low-income housing credit dollar amounts and recordkeeping within a reasonable period after their discovery.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents: 85.

Estimated Time Per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 128.

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: July 9, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19035 Filed 7–16–98; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

Art Objects; Importation for Exhibition: Impressionists in Winter: Effects de Neige

AGENCY: United States Information Agency.

SUBJECT: Culturally significant objects imported for exhibition determinations.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 133359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985).

ACTION: I hereby determine that the objects to be included in the exhibit, ''Impressionists in Winter: Effects de Neige'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The Phillips Collection, Washington, DC from on or about September 19, 1998 through January 3, 1999, and The Fine Arts Museum of San Francisco (Yerba Buena Gardens, Center for the Arts), San Francisco, CA from on or about January 30, 1999 to May 2, 1999 is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Paul Manning, Assistant General Counsel, Office of the General Counsel, 202/619–5997, and the address is Room 700, U.S. Information Agency, 301 4th Street SW, Washington, DC 20547–0001.

Dated: July 13, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–19127 Filed 7–16–98; 8:45 am]

BILLING CODE 8230–01–M

federal register

Friday
July 17, 1998

Part II

Department of Education

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research; Reinviting Applications and Pre-application Meeting for a New Award for a Rehabilitation Engineering Research Center (RERC) for Fiscal Year (FY) 1998; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.133E]

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research; Notice Reinviting Applications and Pre-application Meeting for a New Award for a Rehabilitation Engineering Research Center (RERC) for Fiscal Year (FY) 1998

Purpose: On March 24, 1998 a notice was published in the **Federal Register** (63 FR 14252) inviting applications for a new FY 1998 award for an RERC on improved technology access for land mine survivors. Satisfactory applications were not received for this priority area. There is a continuing need for this project.

The purposes of this notice are to: (1) reinvite applications for an RERC on improved technology access for land mine survivors; and (2) invite interested parties to participate in a pre-application meeting to discuss the funding priority and receive technical assistance through individual consultation and information about the funding priority.

Eligible Applicants: Parties eligible to apply for grants under this program are States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations, institutions of higher education; and Indian tribes and tribal organizations.

Applications Available: July 15, 1998.

Pre-Application Meetings: Interested parties are invited to participate in a pre-application meeting to discuss the funding priority for an RERC on improved technology access for land mine survivors and to receive technical assistance through individual consultation and information about the funding priority. The pre-application meeting will be held on Monday, August 3, 1998 at the Department of Education, Office of Special Education and Rehabilitative Services, Switzer Building, Room 1002, 330 C St. SW, Washington, DC between 10:00 a.m. and 12:00 a.m. NIDRR staff will also be available at this location from 1:30 p.m. to 5:00 p.m. on that same day to provide technical assistance through individual consultation and information about the funding priority. NIDRR will make alternate arrangements to accommodate interested parties who are unable to attend the pre-application meeting in person.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, 80, 81, 82, 85, 86; (b) the regulations for this program in 34 CFR Part 350; (c) the notice of final priorities published on March 24, 1998 in the **Federal Register** (63 FR 14250); and (d) the notice inviting applications published on March 24, 1998 in the **Federal Register** (63 FR 14252).

Deadline for Transmittal of Applications: August 31, 1998.

Maximum Award Amount Per Year: $850,000.

Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Estimated Number of Awards: 1.

Note: The maximum funding level and estimated number of awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

Project Period: 60 months.

For Further Information Contact: In order to obtain further information about the funding priority and the pre-application meeting on the an RERC on improved technology access for land mine survivors contact Robert Jaeger, U.S. Department of Education, Room 3425 Switzer Building, 600 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 205–8061. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136.

In order to obtain an application package, contact Donna Nangle, U.S. Department of Education, Room 3423 Switzer Building, 600 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 205–5880.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 761a and 762.

Dated: July 10, 1998.

Judith E. Heumann,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 98–19043 Filed 7–16–98; 8:45 am]

BILLING CODE 4000–01–P

federal register

Friday
July 17, 1998

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting: Proposed Frameworks for Early-Season Migratory Bird Hunting Regulations and Regulatory Alternatives for the 1998–99 Duck Hunting Season Meeting; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AE93

Migratory Bird Hunting; Proposed Frameworks for Early-Season Migratory Bird Hunting Regulations and Regulatory Alternatives for the 1998–99 Duck Hunting Season; Notice of Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Supplemental.

SUMMARY: The Fish and Wildlife Service (hereinafter the Service) is proposing to establish the 1998–99 early-season hunting regulations for certain migratory game birds. The Service annually prescribes frameworks, or outer limits, for dates and times when hunting may occur and the maximum number of birds that may be taken and possessed in early seasons. Early seasons generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. These frameworks are necessary to allow State selections of final seasons and limits and to allow recreational harvest at levels compatible with population status and habitat conditions. This supplement to the proposed rule also provides the Service's regulatory alternatives for the 1998–99 duck hunting season.

DATES: The comment period for proposed early-season frameworks will end on July 31, 1998; and for late-season proposals on September 7, 1998. The Service will hold a public hearing on late-season regulations August 6, 1998, starting at 9 a.m.

ADDRESSES: The Service will hold a public hearing August 6 in the Department of the Interior's South Auditorium, 1951 Constitution Avenue, NW., Washington, DC. This hearing was previously announced in the May 29, 1998 **Federal Register** (63 FR 29518) as taking place at the Main Auditorium, 1849 C Street, NW., Washington, DC. Parties should submit written comments on these proposals and/or a notice of intention to participate in the late-season hearing to the Chief, Office of Migratory Bird Management (MBMO), U.S. Fish and Wildlife Service, room 634–Arlington Square, Washington, DC 20240. The public may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, MBMO, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1998

On March 20, 1998, the Service published in the **Federal Register** (63 FR 13748) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On May 29, 1998, the Service published in the **Federal Register** (63 FR 29518) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 1998–99 duck hunting season. The May 29 supplement also provided detailed information on the 1998–99 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

This document is the third in a series of proposed, supplemental, and final rulemaking documents for migratory bird hunting regulations and deals specifically with proposed frameworks for early-season regulations and the regulatory alternatives for the 1998–99 duck hunting season. It will lead to final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 1998–99 season. The Service has considered all pertinent comments received through July 1, 1998, in developing this document. In addition, new proposals for certain early-season regulations are provided for public comment. Comment periods are specified above under **DATES**. The Service will publish final regulatory frameworks for early seasons in the **Federal Register** on or about August 21, 1998.

This supplemental proposed rulemaking consolidates further changes in the original framework proposals published in the March 20 **Federal Register**. The regulations for early waterfowl hunting seasons proposed in this document are based on the most current information available about the status of waterfowl populations and habitat conditions on the breeding grounds.

Presentations at Public Hearing

Five Service employees presented reports on the status of various migratory bird species for which early hunting seasons are proposed. These reports are briefly reviewed below.

Mr. James R. Kelley, Jr., Wildlife Biologist, Population and Habitat Assessment Section, provided preliminary information from the May Breeding Waterfowl and Habitat survey conducted each year by the U.S. Fish and Wildlife Service in conjunction with the Canadian Wildlife Service and various State and provincial cooperators. Estimates of ponds and duck abundance that were presented are preliminary and subject to change upon further verification. Palmer drought indices for mid to late May indicated a large area of moderate to severe dryness in the prairie pothole region, especially in western and central areas. Moderate to extreme wetness was indicated in portions of the eastern Dakotas. Breeding habitat conditions as determined by biologists in surveyed areas indicate substantial changes from 1997. In Alaska, there was very little flooding associated with ice break-up this spring, which will favor waterfowl production. Eastern and central portions of Alaska experienced early spring break-up and production will be good to excellent. South-central and western tundra areas had a cool wet spring and production should be fair to good.

Throughout much of Canada and the northern tier of the U.S. spring conditions arrived up to 2 weeks earlier than normal and precipitation was below normal in many regions. Western prairie pothole and parkland areas, as well as Montana, experienced fair to poor habitat conditions, which is a major deterioration from last year's favorable conditions. Numerous forest fires persisted throughout much of May in northern parkland regions of western Canada. Fair to poor conditions extended into southern Manitoba. However, northern Saskatchewan and Manitoba, as well as the Dakotas had mostly good to excellent habitat conditions. In western Ontario, ice-out was very early and the habitat outlook was excellent. In eastern regions, good to excellent conditions extended from Maine to eastern and central Ontario. However, the outlook for southern Ontario was only fair.

The preliminary 1998 estimate of May ponds in the traditional survey area is 4.6 million, which is a 38% decrease from 1997, but is similar to the long-term average. The number of ponds in Prairie Canada is 2.5 million, which is 50% lower than in 1997 and 27% below the long-term average. In the northcentral U.S., May ponds were estimated at 2.1 million, which is 14% below 1997 but is 44% above the long-term average.

The 1998 total duck population estimate for the traditional survey area

is 37.5 million birds. This estimate is 12% lower than that of 1997, but is 15% above the long-term average. For the early season regulations meeting the breeding population estimate for blue-winged teal is of particular interest. This year's preliminary estimate for blue-wing teal is 6.5 million, which would be the highest estimate on record, but is not significantly different from 1997. This estimate is 52% above the long-term average. Unfortunately, harvest estimates from the 1997 September teal season are not available at this time. Updated band-recovery information indicates that direct recovery rates in 1997 remained below 2% for all reference areas, and are similar to recovery rates observed in years in which September teal seasons were held previously. However, until a new band-reporting rate study is conducted, we cannot determine teal harvest rates from banding data.

Dr. Dave Caithamer, Wildlife Biologist, reviewed the status of several populations of Canada geese for which the Service is proposing September seasons. In Alaska, five subspecies of Canada geese are hunted including Dusky Canada geese and Cackling Canada geese. Numbers of Dusky Canada geese, which nest primarily in the Copper River Delta of Alaska, have declined steadily since an earthquake in 1964 altered their nesting habitat and resulted in lowered recruitment rates. The January 1997 population index revealed approximately 21,300 geese, which is significantly greater than the previous year's estimate of 11,200. The Service remains concerned about the continued poor status of this population. The December 1997 survey of Cackling Canada geese revealed 205,000 geese. No comparable survey was conducted in the previous year. However, this population has grown about 11 percent per year since 1988. The 3 other subspecies of Canada geese hunted in Alaska are thought to be at or above objective levels. In the Pacific Flyway, the Rocky Mountain Population of Canada geese is surveyed during winter and spring surveys. These surveys indicate an increasing or stable population since 1988. However, results from neither of these surveys are available from the surveys conducted in 1998. The December 1997 composite index of Great Plains and Western Prairie Populations of Canada geese in the Central Flyway was 482,000 birds, which represents a 6 percent increase from 1996. Population estimates obtained from spring surveys increased at an average rate of 4 percent per year since 1988. The population of Mississippi Flyway giant Canada geese has increased in recent years, and the population estimates for the spring of 1997 was approximately 1 million geese. In some areas, numbers of giant geese have increased to record-high levels. The situation is similar in the northeastern U.S., where the ''resident'' goose population has more than doubled since 1989 to about 1 million birds. The Service is concerned about the rapid growth rate and large sizes of resident Canada goose populations in parts of the Atlantic and Mississippi Flyways. In some regions, the management of these large populations of resident geese is confounded by the presence of other populations, which are below population objectives. The Service recognizes the challenge facing management agencies which are striving to increase migrant populations, while simultaneously attempting to control resident populations.

Dr. Caithamer also summarized the status of several populations of sea ducks. During 1972–1996, breeding population estimates of oldsquaws declined 5 percent per year, while those of scoters declined 2 percent per year. Christmas Bird Counts conducted along across the continent indicate that white-winged scoters declined 2 percent per year during 1972–95, while no trends were detected for the other species of scoters, common eiders, oldsquaws, and harlequin ducks. In the Atlantic Flyway, indices of trends for oldsquaws were inconsistent. Common eider populations in the U.S. portion of the Atlantic Flyway appear to have increased since 1972. Indices of scoter abundance in the Atlantic Flyway suggest declining or stable populations. In the Pacific Flyway, Christmas Bird Counts of white-winged scoters declined 2 percent per year during 1972–1995.

Mr. David Sharp, Central Flyway Representative, reported on the status and harvests of sandhill cranes. The Mid-Continent Population appears to have stabilized following dramatic increases in the early 1980's. The Central Platte River Valley 1998 preliminary spring index, uncorrected for visibility, was 335,000. This index is 5 percent lower than the 1997 index of 351,000. The photo-corrected 3-year average for the 1995–97 period was 460,265, which was 4 percent above the previous year's 3-year running average and within the established population-objective range of 343,000–465,000 cranes. All Central Flyway States, except Nebraska, elected to allow crane hunting in portions of their respective States in 1997–98; about 46,800 Federal permits were issued and approximately 8,850 permittees hunted one or more times. The number of active hunters were 21 percent higher than the previous year's seasons. About 20,668 cranes were harvested in 1997–98 in the Central Flyway, a 21 percent increase from the previous year's high estimate. Harvests from Pacific Flyway, Canada and Mexico are estimated to be about 10,000 for 1997–98 sport-hunting seasons. The total North American sport harvest including crippling losses was estimated to be about 36,535 for the Mid-Continent Population.

The fall 1997 pre-migration survey for the Rocky Mountain Population was 18,036, which is 6% larger than the 1996 estimate. Limited special seasons were held during 1997 in portions of Arizona, Idaho, Montana, New Mexico, Utah, and Wyoming, and resulted in an estimated harvest of 453 cranes.

Dr. John Bruggink, Eastern Shore and Upland Game Bird Specialist, reported on the 1998 status of the American woodcock. The 1997 recruitment index for the Eastern Region (1.4 immatures per adult female) was 18 percent below the long-term regional average; the recruitment index for the Central Region (1.4 immatures per adult female) also was 18 percent below the long-term regional average. Singing-ground Survey data indicated that the number of displaying woodcock in the Eastern Region was unchanged ($P>0.1$) from 1997 levels. In the Central Region, there was a 24 percent increase ($P<0.01$) over 1997 levels in the number of woodcock heard displaying. Trends from the Singing-ground Survey during 1988–98 were negative (-4.3 and -4.2 percent per year for the Eastern and Central regions, respectively; $P<0.01$). There were long-term (1968–98) declines ($P<0.01$) of 2.6 percent per year in the Eastern Region and 1.6 percent per year in the Central Region.

Mr. David Dolton, Western Shore and Upland Game Bird Biologist, presented the mourning dove population status. The report summarized call-count information gathered over the past 33 years. Trends were calculated for the most recent 2 and 10-year intervals and for the entire 33-year period. Between 1997 and 1998, the average number of doves heard per route increased significantly in the Eastern Management Unit. There was no significant change in doves heard in either the Central or Western Units. Over the 10-year period, a significant decline was indicated in doves heard for both the Eastern and Western Management Units while a decline in the Central Unit was not significant. Between 1966 and 1998, all three management units exhibited significant declines in doves heard.

Mr. Dolton also presented the status of white-winged doves. In Arizona, the 1998 call-count index of 35 doves heard per route was higher than the index of 31 doves per route in 1997. In the Lower Rio Grande Valley of Texas, the total number of whitewings estimated to be breeding was about 424,000, an increase of 9 percent from 1997 and 4 percent above the previous 10-year average. Additionally, about 23,000 whitewings were estimated to be nesting in West Texas, 62,000 in the Lake Corpus Christi area, and 709,000 nesting throughout a 13-county area in Upper South Texas. Whitewings are continuing to increase in density and distribution. For example, in San Antonio, whitewing numbers have gone from 174,000 in 1989 to 279,000 in 1998. The remainder of South Texas has increased from 95,000 in 1989 to 430,000 in 1998. The grand total of 1.2 million whitewings was up slightly from the 1.1 million estimated for 1997. Breeding has now been documented in Wichita Falls and Amarillo.

Next, Mr. Dolton reported on white-tipped doves in Texas. In 1998, an average of 0.41 whitetips were heard per stop on 653 stops, an increase of 17 percent over 1997. The annual harvest of these birds is small; in 1996 it was less than 4,000 birds.

Last, Mr. Dolton presented information on band-tailed pigeons. For the Coastal Population, the Breeding Bird Survey indicated a significant decline between 1968 and 1996. Data for 1997 are not available at this time. There has also been a significant decline over the most recent 10-year period, 1986–96. Late August mineral spring counts conducted in Oregon indicate that the pigeon population increased 16 percent between 1996 and 1997 from 8,874 to 9,075. Washington's call-count survey showed no significant change between 1996 and 1997. No significant trend is evident in the population from 1975–97. However, there has been a significant increase over the most recent 5 years, 1993–97. Two indirect population estimates suggest that the population was somewhere between 2.4 and 3.1 million birds in 1992. Bag limits and season lengths continue to be restricted. In Oregon, the 1996 harvest estimate was 3,300 birds while, in California, it was 13,700. For the Interior population, Breeding Bird Survey data indicated a stable population between 1968 and 1996 with no trend being evident. The same was true for the most recent 10-year period. The combined harvest for the Interior population in 1996 was 723 birds. This was less than the 1,600 taken in 1995 and well below the harvest in earlier years which ranged up to 6,000 birds.

Comments Received at Public Hearing

Mr. Brad Bales, gamebird program coordinator for the Oregon Department of Fish and Wildlife, made two statements on behalf of two separate organizations. The first, on behalf of the National Flyway Council, was an announcement that the National Flyway Council would establish a committee to address the framework question from a national perspective. At their next meeting, the National Flyway Council will determine the composition of the group and establish a time frame for the committee to complete their work and make their recommendations back to the National Flyway Council.

Mr. Bales' second comment was on behalf of the Pacific Flyway Council. He indicated that the Pacific Flyway Council urged the Service not to extend the framework dates for duck hunting in the lower Mississippi Flyway as recently proposed in the **Federal Register**. Further, he offered the support of the Pacific Flyway Council for the effort proposed by the National Flyway Council.

Mr. Robert McDowell, representing the Atlantic Flyway Council thanked the Service for providing more hunting opportunity during the Youth Hunt Day by allowing geese to be included in the bag limit. Also, he thanked the Service for agreeing to clarify the sea duck bag limits. He expressed appreciation for approving Florida's September Duck Season and for authorizing a 9-day September Teal Season in a portion of the Atlantic Flyway. However, he asked the Service to reconsider a 16-day teal season. Also, he asked the Service to reconsider New York's proposal to expand their early Canada goose season in the Montezuma area. He stressed the Flyway's proposal that framework dates remain fixed where they currently are in all Flyways and disapproved of attempts occurring outside the formal regulatory process to change them. He further indicated that if the Service finalized the proposed framework closing date extensions, all States should have the same opportunity. He supported the National Flyway Council efforts to resolve this problem that is divisive among Flyways.

Mr. Charles Kelley, representing the Alabama Department of Conservation and Natural Resources, commented in support of the proposed extension of the framework closing date for duck hunting, stating that the State had been requesting an extension for a number of years because a later hunting season would allow them to take better advantage of duck abundance in the State.

Written Comments Received

The preliminary proposed rulemaking, which appeared in the March 20 **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The supplemental proposed rule, which appeared in the May 29 **Federal Register**, defined the public comment period for the Service's proposed regulatory alternatives for the 1998–99 duck hunting season. The public comment period for the proposed regulatory alternatives ended July 1, 1998. Early-season comments and comments pertaining to the proposed alternatives are summarized below and numbered in the order used in the March 20 **Federal Register**. Only the numbered items pertaining to early seasons items and the proposed regulatory alternatives for which written comments were received are included.

The Service received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

General

1. Ducks

The categories used to discuss issues related to duck harvest management are as follows: (A) General Harvest Strategy, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. Only those categories containing substantial recommendations are included below.

A. Harvest Strategy Considerations. On May 29, 1998, the Service published for public comment the proposed regulatory alternatives for the 1998–99 duck hunting season (63 FR 29518). The proposed regulatory alternatives were identical to the alternatives utilized in 1997–98 except for the proposal to offer an extension of the framework closing date to no later than January 31 in those States in the Lower Region of the Mississippi Flyway (Arkansas, Alabama, Kentucky, Louisiana, Mississippi, and Tennessee). Further discussion of the framework issue can be found in B. Framework Dates.

Council Recommendations: All four Flyway Councils generally endorsed continuation of the 1997–98 regulatory alternatives. Modifications recommended by the Councils were identified and discussed in the May 29, 1998, **Federal Register**. The recommendations are reiterated below and modified where necessary based on subsequent comments received from the Flyway Councils.

The Atlantic Flyway Council recommended that the duck hunting packages used for the 1997–98 season be continued for the 1998–99 season.

The Upper-Regulations Committee of the Mississippi Flyway Council recommended that the 1997–98 regulations packages be maintained for the 1998–99 duck season. These consisted of 20-, 30-, 45-, and 60-day seasons, with bag limits ranging from 3 to 6 ducks, including appropriate species restrictions, and frameworks dates from the Saturday nearest October 1 to the Sunday nearest January 20.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the regulatory packages for the 1997–98 season be continued in 1998–99, with the exception of framework dates (see further discussion in B. Framework Dates).

The Central Flyway Council recommended that the duck hunting packages used for the 1997–98 season be continued for the 1998–99 season.

Service Response: For the 1998–99 regular duck hunting season, the Service will utilize the four regulatory alternatives detailed in the accompanying table. Alternatives are specified for each Flyway and are designated as ''VERY RES'' for the very restrictive, ''RES'' for the restrictive, ''MOD'' for the moderate, and ''LIB'' for the liberal alternative. The Service is convinced that these alternatives will be successful at providing maximum hunting opportunity, while not jeopardizing the ability of duck species to attain population goals when habitat conditions are adequate. The Service will propose a specific regulatory alternative when survey data on waterfowl population and habitat status are available.

B. Framework Dates. Council Recommendations: The Atlantic Flyway Council recommended no change to the current framework dates, believing that extensions would be premature without knowing the potential harvest impacts, which could reduce the frequency of liberal regulations and would reduce the likelihood that eastern mallards will be fully incorporated into Adaptive Harvest Management (AHM) this year. In a subsequent letter, the Council opposed the Service's May 29, 1998, framework extension proposal because the proposal was developed outside the normal Flyway meeting schedule which prohibited Flyway Council review. The Council voiced concerns regarding the impact on the AHM process, adverse impacts on hunting opportunities across all Flyways to accommodate desires of a small region which already enjoys very high hunter success, negative biological impacts on mallard pairing and hen body condition, and impacts on eastern mallard stocks, black ducks, and wood ducks. They believe the proposal calls into question the fair allocation of a shared resource and mechanisms used to achieve that allocation. The Council warned that allowing extensions without using existing Flyway Council protocol would fracture the existing Flyway system and politicize the system. The Council recommended delaying action on frameworks for at least one year to allow appropriate State and Flyway review.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended the Service allow States to choose a framework closing date as late as January 31 with a 10% penalty in days.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended no change in existing framework dates. The Committee also recommended that if the Service were to offer States the opportunity to extend frameworks, the extension should be coupled with a commensurate reduction in season length and/or bag limits in the participating States to offset the predicted increase in harvest.

The Central Flyway Council recommended maintaining the current opening and closing framework dates adopted under AHM. However, at some future date, when the packages are reviewed for modification, the Council recommended that the framework dates issue should be cooperatively dealt with by all Flyways in seeking an agreement for equitable harvest opportunity. In a subsequent letter, the Council opposed the Service's May 29, 1998, proposal because it was developed outside the normal Flyway Council/Service review process. They believe the proposal's adoption will create animosity among States and erode the cooperative framework the Council system has provided for the past fifty years, and threaten the success of AHM. The Council perceives the extension issue as one of fair allocation of harvest opportunity. The Council is concerned that other States are not being offered the extension and may be held to a more stringent criteria for future changes. The Council urged the Service to work with Flyways to continue development of the AHM program, which the Council believes will promote enhanced hunting opportunities in the future. The Council stated that both early and late framework issues should be addressed when AHM packages are next revised and that they look forward to working with the other Flyways and the Service towards an agreement on equitable harvest opportunity.

The Pacific Flyway Council recommended maintaining the current opening and closing duck season framework dates adopted under AHM for the near future.

Written Comments: The Mississippi Department of Wildlife, Fisheries, and Parks commented in favor of extending the framework closing date to January 31 and submitted an analysis of data based on the most recent two years. Although their analysis indicated an appropriate reduction in season length of 3 days, they proposed to reduce the season length 8 days, based on a more liberal estimate of harvest increases.

The Kentucky Department of Fish and Wildlife Resources communicated their interest in having the option of a January 31 framework closing date. While the State had no specific data related to an appropriate penalty for the extension, they believed Mississippi's analysis was applicable for the Lower Region at this time, unless more appropriate analyses had been conducted elsewhere. Kentucky urged the Service to develop final framework packages based on the information that most accurately reflects the anticipated impacts.

The Arkansas Game and Fish Commission expressed concern that the framework issue had been pursued largely outside the Flyway Council process and threatened the long-term waterfowl management process, but believed a component of its hunters was interested in the extended opportunity. Arkansas expressed concern over the potential for the extensions to result in more restrictive harvest regulations in the future, and the inability to accurately measure harvest rates and assess impacts of the extensions.

The Tennessee Wildlife Resources Agency stated that the recent warmer-than-normal conditions had renewed sportsmen's interest in framework extensions. The State pledged the assistance of its personnel to help resolve the framework issue in a fair, equitable, and non-divisive manner. An Agency resolution called for the Service and the Mississippi Flyway Council to

work towards extending season frameworks in a fair and equitable manner for the 1998–99 season and beyond.

The Louisiana Department of Wildlife and Fisheries supported a framework extension to January 31 as long as the State's participation does not require a reduction in hunting days or bag limits. Louisiana was disappointed by the proposed rule and hoped the Service would develop a practical resolution to this contentious issue. A 1997 opinion survey of Louisiana hunters indicated a large majority preferred a January 31 closing date and State waterfowl survey data indicate that more ducks are in Louisiana during December and January. The State was unable to develop, in the allotted period, an estimate of the impact on harvest rates that they would consider reliable.

The Alabama Department of Conservation and Natural Resources stated that they had supported framework extensions in Alabama for many years and support maximizing hunting opportunities as long as the resource is not negatively impacted. The Department stated that Alabama hunter success is near or below the Mississippi Flyway average as shown by seasonal duck harvest per hunter and that an increased proportion of mallards harvested in Alabama may help offset the long-term decline in Canada goose harvest opportunity in Alabama. Alabama had no data regarding an offset penalty and would rely on the analysis from Mississippi.

The Pennsylvania Game Commission opposed the extension proposal. Pennsylvania stated the proposal was developed without consultation with the other Flyway Councils, it conflicted with cooperatively developed AHM packages, and would confound attempts to assess impacts of season length on harvest. Concern was expressed about the potential for increased harvest of eastern duck stocks and the potential for more restrictive harvest opportunities on a broad scale if frameworks were extended in southern States. Pennsylvania believed that, at the very least, consideration of this proposal should be delayed until Flyway Councils and the AHM working group had assessed its ramifications.

The South Carolina Department of Natural Resources objected to the proposal to limit the extension of the framework closing date to the southern portion of the Mississippi Flyway. They stated that waterfowl hunters in South Carolina have been dissatisfied with the framework dates for a very long time, and the proposal to restrict the extension is arbitrary and capricious and violates the tenet of ''fairness'' that we have operated under for so many years as relates to the nationwide management of migratory birds through the regulatory process administered by the Service. They recommended that the same option for extension of the framework closing date be offered to States in the southern portion of the Atlantic Flyway.

The Georgia Department of Natural Resources did not support the extension proposal because it undermined the primary goals of the AHM process which had been adopted by all Flyways. They believed adoption of the proposal would serve as a catalyst for additional regional campaigns leading to increased regulatory inconsistency. Many of Georgia's hunters strongly desire a framework extension to January 31; however, until current packages are tested over a longer period, it was not in the long-term interest of waterfowl to extend frameworks. If changes are to be made now, extensions should be available to all States. The Lower Mississippi Flyway proposal has triggered discussions regarding a southern coalition within the Atlantic Flyway, intended to pursue southern issues and framework extensions in that region.

The New York State Department of Environmental Conservation requested that the proposed framework extension be deferred for one year to allow adequate review by all Flyway Councils and the AHM working group. New York expressed concerns that the proposal was developed without Flyway Council review, was counter to AHM principles, that efforts on framework extensions would delay the incorporation of eastern mallards into the decision process, future harvest opportunity for all Flyways could be adversely affected, eastern duck stocks could be impacted, and that adoption of the proposal would spawn additional requests from special interest groups. The Department stated that when regulation packages were set and agreed to by all Councils, it was understood that they would be stable for several years, New York recommended that the Flyway Councils and the AHM working group work this year to devise a strategy for 1999.

The North Dakota Game and Fish Department stressed that waterfowl harvest management should be based on sound scientific information and objectives established through the Flyway Council process. North Dakota expressed great concern over the unfairness of extending southern frameworks when northern States have benefitted little from special teal seasons and recently lengthened seasons. They believed if an extension is offered to southern States similar opportunity must be offered to all States.

The South Dakota Department of Game, Fish and Parks urged the Service to not extend the framework closing date in the southern part of the Mississippi Flyway, since all other Flyway Councils and the Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that framework dates not be changed. Such action would be totally unfair to all other States that are willing to use the AHM process to fairly and biologically determine the framework issue.

The Kansas Department of Wildlife & Parks strongly opposed the proposal to offer extended duck hunting season framework dates to States in the lower region of the Mississippi Flyway, stating that it is blatantly unfair to other States that may be interested in such changes, and that it will establish an undesirable precedent regarding how we implement harvest regulations.

The Delaware Department of Natural Resources opposed a framework extension for the southern Mississippi Flyway because it conflicted with recommendations from all Flyways Councils (1997) to maintain consistency in regulatory packages and it could negatively affect other States through redistribution of harvest. Delaware urged all four Councils and the AHM working group work to recommend a specific strategy for 1999 to address all concerns.

The Missouri Department of Conservation opposed the framework extension due to concerns regarding biological impacts on the waterfowl resource including changes in harvest timing and composition (age, species, and sex), the inequitable provision of the extension opportunities, and conflicts with the AHM process. Missouri believes adopting this proposal would set an unfortunate precedent and have negative implications for the future of cooperative waterfowl and wetland management.

The Michigan Department of Natural Resources strongly opposed the extension proposal on the basis of its conflict with previous recommendations of the Upper-Region Regulations Committee. Michigan believed if extensions were implemented, both early and late extensions should be offered to all States.

The Connecticut Department of Environmental Protection opposed the extension proposal and requested the Service defer action until full review by all Flyways is possible. Connecticut

voiced concern over reduced hunting opportunity across the nation and impacts to black ducks which are more vulnerable in late winter.

The Minnesota Department of Natural Resources continued to support recommendations of the Upper-Region Regulations Committee of the Mississippi Flyway Council and the other 3 Flyway Councils for no change in framework dates. They believe the extension proposal is extremely divisive and threatens the future of the Flyway Council system and AHM. They stated that the potentially negative physiological impacts on ducks of extensions have not been addressed and should be evaluated by States and the Service prior to implementing extensions. Minnesota believed northern States have the strongest argument for framework extensions because of weather-related limitations to long duck seasons. The extension proposal was contrary to the cooperative process of establishing migratory bird regulations; however, if it is offered, it should be offered to all States.

The Wisconsin Department of Natural Resources supported no change in framework dates. Wisconsin found the extension proposal completely unacceptable because it increases inequity, citing the current higher hunter success rates in southern States, frequently truncated season length in northern States due to freeze-up, and differences in special-teal-season availability. Wisconsin expressed concern about the possible impacts of late-winter hunting on mallard pair formation and nutrient-reserve accumulation. Wisconsin opposed offering southern States an extension, but believed if the extension was granted to southern States, northern States must be offered an extension on season opening dates.

The Illinois Department of Natural Resources stated the extension proposal was patently unfair because it was not available to all States in all Flyways. The State remains concerned about biological impacts on duck pair formation and acquisition of body reserves. Illinois believed this is an issue of national consequence and without time for a full public debate and analysis before the 1998 season, the Service should postpone implementation of any framework extensions until at least the 1999 season. However, if extensions are implemented, the offset penalty should be determined by the Service or third party and Illinois should be allowed to split the duck season in their three zones.

The Oklahoma Department of Wildlife Conservation was strongly opposed to the extension proposal. Oklahoma believed that the proposal seriously undermines the long-standing cooperative Flyway and Service process for establishing waterfowl hunting regulations and calls into question the Service's commitment to the AHM process. Oklahoma further recommended that the Service deny the framework extension until such time as the issue can be addressed through the AHM process and all States' interests are fairly and objectively considered.

The Wyoming Game and Fish Department opposed the framework extension because they believe that season recommendations should be based on Flyway/Service review and approval and not political considerations, the proposed extension threatens AHM, other States are not offered a similar opportunity, and the proposal creates animosity between States and erodes the cooperative framework of the Flyway Council system. They further encourage the Service to work with the Flyways to continue to develop and enhance AHM and believe that early and late framework issues should be addressed when the next round of AHM packages are developed.

The New Jersey Division of Fish, Game and Wildlife opposed implementation of framework extensions due to their commitment to the AHM process, concern regarding impacts on migrating wood ducks, and the potential to divide the flyway system.

The Wisconsin Conservation Congress opposed the framework extension proposal stating that it was in direct conflict with the principles of the Service to manage the resource for the benefit of all people.

The Delta Waterfowl Foundation did not support the framework extension proposal. While supporting the Service's goal of ensuring that nonparticipating States will not be impacted, they believed that reductions in bag limits and species restrictions should also be considered. They further stated that the Service should entertain other framework date extensions, such as opening dates.

The Alabama Waterfowl Association requested a January 31 extension in Alabama be experimental beginning in the 1998 season. The Association would accept a 10% penalty in hunting days. They cite conflicts between farmers and hunting-lease holders or hunters in mid-November when incomplete crop harvest prevents flooding of agricultural fields. The Association believed an extended framework would allow improved habitat management and availability at the start of the season and would have less impact on the resource than the additional hen in the bag recently offered.

Two individuals from Michigan, 45 from Wisconsin, 30 from Minnesota, 1 from Arkansas, 1 from Iowa, 1 from Florida, and 3 from Tennessee commented in opposition to the proposed extension of the framework closing date.

Three individuals from Alabama, 1 from Florida, 5 from Arkansas, 2 from Georgia, 31 from Tennessee, and 110 from Mississippi commented in favor of extending the framework closing date.

Service Response: The Service appreciates the extensive comments it received regarding the May 29 proposal (63 FR 29518) to extend the framework closing date to January 31 in the six States of the southern Mississippi Flyway (AL, AR, KY, LA, MS, TN). In the proposal, the southern Mississippi Flyway would be permitted a framework-date extension, provided it was accompanied by a reduction in season length sufficient to offset the expected increase in harvest. The Service's goal was to provide hunting opportunity that had been requested by southern Mississippi Flyway States, without expanding overall harvest in those States or affecting hunting opportunities in other States and Flyways. The Service will establish a final framework closing date for the 1998–99 duck hunting season in these six States in conjunction with the late-season regulations process.

F. Zones and Split Seasons.Written Comments: The Ohio Division of Wildlife requested elimination of the Pymatuning Waterfowl Hunting Zone in Ohio and incorporation of the affected area into the North Zone beginning in the 1998–99 season.

Service Response: In the past, hunting seasons in that portion of Ohio had to be the same as those selected by Pennsylvania for that portion of Pennsylvania. Beginning this year, the Pymatuning Area will no longer be included in the Federal waterfowl hunting frameworks as a separate area, and will be considered part of Ohio's North Zone.

G. Special Seasons/Species Management

iii. September Teal Seasons

Council Recommendations: The Atlantic Flyway Council recommended the establishment of an experimental September teal season option in the Atlantic Flyway. States deriving more

than 80 percent of their teal harvest from mid-continent populations (Delaware, Georgia, Florida, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia) could hold a 9-day season between September 1 and 30 with a daily bag limit of 4 teal.

The Central Flyway Council recommended an experimental September teal season harvest strategy in the nonproduction States of the Central Flyway based on the May breeding population index (BPI) of blue-winged teal. When the BPI of blue-winged teal is 4.7 million or greater, the Council's recommended harvest strategy would consist of an additional 7 days of hunting (for a total of 16 days).

When the BPI of blue-winged teal is below 4.7 million but remains at or above 3.3 million, the Council's recommended harvest strategy would maintain the current 9-day season. When the BPI of blue-winged teal is below 3.3 million, the Council's recommended harvest strategy would consider closure of September teal seasons.

Written Comments: One individual from Wisconsin and 1 from Minnesota urged the Service to consider a special teal season for the production States.

Service Response: The Service supports the Atlantic Flyway Council's proposal for an experimental 9-day special September teal season in those States that derive 80% of their harvest from the mid-continent blue-winged teal populations (to include States from Pennsylvania and Delaware southward). These States would be required to evaluate the impacts to non-target waterfowl species by conducting hunter performance surveys. The Service remains concerned with the definition of production and non-production States, but will work with the Flyway to establish decision criteria based on historic harvests of non-target species in other Flyways. The Service strongly encourages as many of the States as possible to participate in the evaluation, as sampling requirements will be based on the number of States involved. This season will be experimental for a 3-year period but must include a pre-sunrise evaluation in order to have shooting hours begin ½-hour before sunrise. The Service will develop a Memorandum of Agreement to stipulate the guidelines and implementation of this season.

The Service also supports the Central Flyway Council's proposal for a September-teal-season harvest strategy that would provide a 16-day special season in those States that currently have operational special September teal seasons when blue-winged teal populations are above 4.7 million. The evaluation plan submitted by the Council appears adequate for annual monitoring and assessment of this expanded opportunity. Although current changes in band-reporting rates make interpretation of band-recovery data difficult, the Service believes that the 4.7 million breeding population trigger is an adequate threshold for conducting these expanded seasons. The expanded season also will be offered to those States in the Mississippi Flyway that currently are offered a special teal season, under the same stipulations as for the Central Flyway. An annual evaluation of pertinent population, habitat, and harvest information will be required, with a final report due after the seasons have been conducted for 3 years. Continuation of the season is conditional upon the completion of the annual and final reports.

The Service believes that a comprehensive review of blue-winged teal biology, an assessment of the cumulative effects of all teal harvest, and an evaluation of possible expansion of hunting opportunity in production States is needed. In order to facilitate such an evaluation the Service proposes to host a meeting this fall. The Service asks Flyway Councils to designate two representatives from each of the three involved Flyways to meet with Office of Migratory Bird Management staff to design a comprehensive evaluation of blue-winged teal biology and harvest management.

iv. September Teal/Wood Duck Seasons

Council Recommendations: The Atlantic Flyway Council recommended the continuation of the Florida September wood duck/teal season on an operational basis.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the experimental September teal/wood duck seasons in Kentucky and Tennessee be continued in 1998 with no changes from the 1997 season. The Lower-Region Regulations Committee further recommended that if such seasons are suspended, all non-production States should be permitted to take up to 5 days of the regular season in September.

Written Comments: Representatives John S. Tanner, John J. Duncan, Harold Ford, Jr., William Jenkins, Van Hilleary, Zach Wamp, Ed Bryant, Bob Clement, Bart Cordon, and Senators Fred Thompson and Bill Frist from Tennessee requested that the Service not close Tennessee's early wood duck season. The commenters state that a decision by the Service to close the season would appear to be one based on administrative rationale, rather than sound biology. Further, facts that support continuation of the season are that: the season has been approved for 17 years, that the Tennessee Wildlife Resources Agency has met its preseason banding obligations, that no downward trends in the wood duck populations have been recorded in stream-float surveys, summer bandings, or the Breeding Bird Survey. Finally, survival rates for Tennessee wood ducks are similar to, or higher, than rates observed prior to 1981. Roughly one third of Tennessee's waterfowlers participate in the early wood duck season. The commenters believe that closing the season would discourage their active involvement in wood duck management.

The Tennessee Wildlife Resources Agency (Tennessee) expressed disappointment that the Service intended to suspend the September wood duck season. They pointed out the Tennessee hunters have never complained about decreased wood duck numbers, and that empirical evidence demonstrates that the wood duck population is not experiencing any long-term declines. Further, Tennessee stated that closing the popular 5-day season would be hard to justify because the evaluation of the season could not conclude whether the season is good or bad. Tennessee mentioned that the high costs associated with regional wood duck population monitoring will discourage most States from participating in any monitoring programs beyond what is currently being done. They pointed out that eliminating the September season without a clearly stated harvest alternative would stymie any new data collection efforts. Thus, they requested that Tennessee's September wood duck season be granted operational status and be grandfathered into the existing frameworks.

The Kentucky Department of Fish and Wildlife Resources (Kentucky) also expressed disappointment that the Service would recommend suspending the September wood duck season in Kentucky. They stated that evaluation of the season indicated that it met the objective of limiting harvest to local wood ducks without negatively impacting southern wood duck populations. They recognized that the conclusions of the evaluation were based on data where the level of precision was questionable, but that the data were the best available and should not be discarded. Kentucky emphasized that data collected by their agency indicated no negative impacts on local

wood duck populations and therefore requested that Kentucky's September season be granted operational status and grandfathered into the existing frameworks.

The Florida Game and Fresh Water Fish Commission opposed suspension of the September Wood Duck Seasons based on the Service's contention that adequate population monitoring was lacking. They maintained that their monitoring programs have not detected any undue negative effects on local wood duck populations after 17 years. They believe that if the Service is comfortable with the regular-season harvest pressure on wood ducks caused by several changes in season lengths, then concern over Florida's September season hardly seem warranted. They believe the Service has continued to raise the standard for evaluation long after these seasons were initiated and did not provide specific criteria. They maintain that there is no evidence that Florida's season is negatively influencing their local wood populations and it appeared as though the reason for suspending the seasons was unjustly based on administrative convenience rather than biological concern.

The Minnesota Department of Natural Resources opposed hunting opportunities that are not offered to hunters in all States within a flyway. If the September wood duck seasons are suspended, they would not support non-production States in the Lower Region taking up to 5 days from the regular season in September.

The Alabama Waterfowl Association indicated that they do not see any reason to suspend the early wood duck season and maintain that southern States provide habitat enhancement projects and deserve to have harvest opportunities on locally reared wood ducks.

A petition letter signed by 110 individuals from Tennessee stress the fact that to do away with the wood duck September season would deplete a lot of interest among several organizations who get involved with nest box programs and habitat improvement projects.

Thirty-two individuals from Tennessee, 13 from Florida, and 5 from Kentucky expressed support for continuing with the September wood duck seasons to provide hunting opportunities and opposed any action by the Service to discontinue these seasons.

Service Response: The Service notes that after many years of trying to develop regional wood duck population-monitoring programs, attempts to evaluate the experimental September wood duck seasons have been unsuccessful. Without adequate regional monitoring, special seasons that target regional wood duck populations should be discontinued. Instead, wood duck harvest management should be approached at the flyway level during the regular season. The recently-completed Wood Duck Population Monitoring Initiative showed that managers have much of the capability needed to monitor wood ducks at the flyway level. The Service recognizes that improvements in the way we develop regular season approaches to wood duck harvest management are possible. These improvements should incorporate information about the status and dynamics of wood ducks. However, there is a need to conduct additional technical assessments in order to develop flyway harvest strategies. The Service will coordinate with Flyway Councils and Technical Sections to develop such strategies.

During the interim period, the Service proposes to allow Florida, Kentucky, and Tennessee to hold September wood duck seasons for a maximum of 3 more years. After September 2000, the seasons in Florida, Kentucky, and Tennessee will be discontinued. Flyway harvest strategies will then be implemented for the 2001/02 hunting season. Should the technical assessment be completed sooner, and a flyway strategy be implemented, the September seasons would be suspended at that time.

v. Youth Hunt

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that a special one-day youth waterfowl season include the harvesting of geese.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that a special 2-day youth waterfowl season include the harvesting of geese.

The Central Flyway Council recommended expansion of the special youth waterfowl hunt to 2 consecutive days with a legal bag that includes geese.

The Pacific Flyway Council recommended continuation of the one-day youth hunt that allows States to select outside the general season and frameworks. The Council further recommended the addition of 1 goose to the bag limit.

Written Comments: Senator John T. Traynor of the North Dakota Senate expressed his support for the youth hunt and urged the Service to expand the special season to 2 days and include geese in the bag limit.

The Delta Waterfowl Foundation supported the expansion of the special youth hunt to 2 days and the inclusion of geese in the bag limit.

Service Response: The Service appreciates the recommendations from the Flyway Councils regarding the continuation of a youth waterfowl hunting day. Upon establishment of the special youth hunting day, the Service viewed it as a unique educational opportunity which would help ensure safe, high-quality hunting for future generations of Americans. The Service's intent was not to recruit youth hunters, but to provide the best and safest learning environment for those of our youth who are interested in hunting. Further, the Service believes that establishing such a day was consistent with our responsibility to provide general education and training in the wise use of our nation's valuable wildlife resources. The Service believes the long-term conservation of North America's migratory bird resources depends on the future attitudes and actions of today's youth and that the special youth day assists in the formation and development of a conservation ethic in future generations. The Service's intent in establishing this special day is to introduce youth to the concepts of ethical utilization and stewardship of waterfowl and other natural resources, encourage youngsters and adults to experience the outdoors together, and contribute to the long-term conservation of the migratory bird resource. With these intents in mind, there is not a compelling reason to extend the opportunity an additional day.

Additionally, the Service has not conducted an extensive national evaluation of the effects of the special youth hunt day to date, nor does the Service plan to conduct such an evaluation due to cost/benefit considerations. Because the special 1-day hunt is limited to youths, the Service believes that waterfowl populations can support the limited additional harvest. However, an additional day would potentially double the effect, which would result in increased uncertainty.

With regard to geese, the Service supports the inclusion of the regular-season daily bag limit for geese in the special youth-hunt bag limit. However, there are two considerations that States must be aware of regarding the inclusion of geese in the youth hunt: (1) in many cases, States already use the legal limit of 107 goose hunting days

and the inclusion of geese in the youth day bag will require a 1-day reduction in the regular season length, and (2) all area/species restrictions would apply, thus complicating the regulations in areas with species restrictions or area closures.

2. Sea Ducks

Council Recommendations: The Atlantic Flyway Council recommended that the Service clarify regulatory language concerning bag limits for sea ducks so that bag limits for seas ducks during the regular season cannot exceed bag limits for sea ducks established in the special sea duck season, whether inside or outside the special sea duck area.

Service Response: The Service will continue to work with the Atlantic Flyway Council as they prepare their management plan for common eiders, and encourages the Flyway to develop management goals for other populations of sea ducks. The Service believes that a conservative approach to sea duck hunting is warranted, especially if management plans or goals have not been adopted. The Service will assess the appropriateness of current sea duck hunting regulations after finalizing a report on the status of sea duck populations; changes will be considered for the 1999 hunting season.

4. Canada Geese

A. Special Seasons. Council Recommendations: The Atlantic Flyway Council recommended that the closing date of the September goose season around Montezuma National Wildlife Refuge be extended from September 15 to 25.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service reevaluate criteria for special Canada goose seasons (early and late), particularly as they relate to the cumulative harvest of migrant Canada geese from populations of special concern, to insure that the criteria are consistent with management efforts to increase and/or maintain migrant populations of special concern to/at planned objective levels.

Service Response: In accordance with the criteria established for early seasons on resident Canada geese, the harvest of migrant geese cannot exceed 10%. Collar observations provided by New York for 1995–97 exceed this level. Thus, the Service does not support this request. The criteria only address the ratio of collar observations without regard to the area size or number of collars or geese observed. Based on the evidence provided by New York, the potential to harvest AP geese increases substantially in late September. The Service recognizes that in some cases a single observation of a potential migrant may exceed the 10% criterion, but at this fine scale, it is very difficult to fully assess the impacts of expanding the season to September 25.

The criteria for special Canada goose seasons are designed to provide additional harvest of locally nesting Canada geese without additional impact on migrant populations. The Service believes that to date they have accomplished that objective; however, the Service will continue to monitor harvest information with reference to the provisions of the special-season criteria and objectives for migrant Canada goose populations.

B. Regular Seasons. Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the 1998 regular goose season opening date be as early as September 26 in Michigan's Upper Peninsula and September 19 in Wisconsin.

Service Response: The Service concurs with the recommendation.

9. Sandhill Cranes

Council Recommendations: The Central and Pacific Flyway Councils recommended that the Rocky Mountain Population (RMP) greater sandhill crane hunt in Wyoming's Area 6 (Park and Bighorn Counties) become operational in 1998. The Councils further recommended that the third year of monitoring and data collection for the experimental hunt be waived.

Service Response: The Service concurs with the Central and Pacific Flyway Council recommendations for removal of experimental status of the RMP greater sandhill crane hunt in Big Horn and Park Counties of Wyoming. The third year of monitoring and data collection will be waived.

16. Mourning Doves

Written Comments: The Louisiana Department of Wildlife and Fisheries requested an extension of the framework closing date from January 15 to January 20.

Service Response: The Service does not support Louisiana's request at this time and asks that the issue be incorporated into the mourning dove management plan for the Eastern Management Unit which is currently being prepared.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended an increase in Alaska's Canada goose daily bag and possession limit from 1 and 2 to 3 and 6, respectively, within overall dark goose bag and possession limits of 4 and 8 in Alaska Game Management Subunit (GMU) 9(E) (Alaska Peninsula) and Unit 18 (Y–K Delta).

The Pacific Flyway Council recommended an archery-only Canada goose hunt on Middleton Island, Alaska (GMU 6); by registration permit only, with no more than 10 permits; mandatory goose identification class, check-in, and check-out; season dates of September 28 to December 16; bag and possession limit of 1; season to close if incidental harvest includes 5 dusky Canada geese.

Service Response: The Service supports the Council's recommendation for increased Canada goose bag limits within the overall dark goose bag limit and the limited season for Canada Geese on Middleton Island with all of the conditions recommended by the Pacific Flyway Council except the limitation of the method of take to only archery. The Service has received no rationale for limiting the method of take and believes to do so without reason would establish an undesirable precedent.

Public Comment Invited

The Service intends that adopted final rules be as responsive as possible to all concerned interests, and wants to obtain the comments and suggestions from all interested areas of the public, as well as other governmental agencies. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. However, special circumstances involved in the establishment of these regulations limit the amount of time the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, the Service believes allowing comment periods past the dates specified is contrary to public interest.

E.O. 12866 requires each agency to write regulations that are easy to understand. The Service invites comments on how to make this rule easier to understand, including answers to questions such as the following: (1)

Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? What else could the Service do to make the rule easier to understand?

Send a copy of any comments that concern how this rule could be made easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, N.W., Washington, D.C. 20240. Comments may also be e-mailed to: Exsec@ios.doi.gov

Comment Procedure

It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rulemaking process, whenever practical. Accordingly, interested persons may participate by submitting written comments to the Chief, MBMO, at the address listed under the caption **ADDRESSES.** The public may inspect comments during normal business hours at the Service's office address listed under the caption **ADDRESSES.** The Service will consider all relevant comments received and will try to acknowledge received comments, but may not provide an individual response to each commenter.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, **Federal Register** (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES**.

Endangered Species Act Considerations

As in the past, the Service will design hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations are presently under way to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations will be included in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final frameworks will reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents and will be available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption **ADDRESSES**.

Regulatory Flexibility Act

In the March 20, 1998, **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act. One measure was to prepare a Small Entity Flexibility Analysis (Analysis) in 1996 documenting the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between $254 and $592 million at small businesses. Copies of the Analysis are available upon request from the Office of Migratory Bird Management. The Service is currently updating the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey.

Executive Order (E.O.) 12866

This proposed rule is economically significant and will be reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

Paperwork Reduction Act

The Service examined these proposed regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR Part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. OMB has approved these information collection requirements and assigned clearance numbers 1018–0015 (expires 08/31/1998) and 1018–0023 (expires 09/30/2000).

Unfunded Mandates Reform Act

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Taking Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. The Service annually prescribes frameworks from which the States make selections and employs guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulation. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American tribal Governments'' (59 FR 22951) and 512

DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1998–99 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: July 7, 1998.

William Leary,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulations Frameworks for 1998–99 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following proposed frameworks which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select for certain migratory game birds between September 1, 1998, and March 10, 1999.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Mourning Dove Management Units

Eastern Management Unit—All States east of the Mississippi River, and Louisiana.

Central Management Unit—Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit—Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region—Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region—Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, Virginia, and West Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway—Delaware, Georgia, Maryland, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia. All seasons are experimental.

Mississippi Flyway—Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, and Tennessee.

Central Flyway—Colorado (part), Kansas, New Mexico (part), Oklahoma, and Texas.

Hunting Seasons and Daily Bag Limits: Not to exceed 9 consecutive days in the Atlantic Flyway and 16 consecutive days in the Mississippi and Central Flyways. The daily bag limit is 4 teal.

Shooting Hours

Atlantic Flyway—One-half hour before sunrise to sunset, if evaluated; otherwise sunrise to sunset.

Mississippi and Central Flyways—One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Missouri, and Ohio, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida: A 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate.

Kentucky and Tennessee: In lieu of a special September teal season, a 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Iowa: Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks which are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 19). The daily bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process. The remainder of the regular duck season may not begin before October 10.

Special Youth Waterfowl Hunting Day

Outside Dates: States may select 1 day per duck-hunting zone, designated as ''Youth Waterfowl Hunting Day,'' in addition to their regular duck seasons. The day must be held outside any regular duck season on a weekend, holiday, or other non-school day when youth hunters would have the maximum opportunity to participate. The day may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limit may include ducks, geese, mergansers, coots, moorhens, and gallinules and would be the same as that allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult could not duck hunt but may participate in

other seasons that are open on the special youth day.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15 and January 20.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate of the listed sea-duck species, of which no more than 4 may be scoters.

Daily Bag Limits During the Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated, and designated as special sea-duck hunting areas under the hunting regulations adopted by the respective States.

Special Early Canada Goose Seasons

Atlantic Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected for the Montezuma Region of New York; the Lake Champlain Region of New York and Vermont; the Eastern Unit of Maryland; Delaware; and Crawford County in Pennsylvania. Seasons not to exceed 20 days during September 1–20 may be selected for the Northeast Hunt Unit of North Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway, except Georgia and Florida, where the season is closed. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Experimental Seasons

Experimental Canada goose seasons of up to 30 days during September 1–30 may be selected by New Jersey, New York (Long Island Zone), North Carolina (except in the Northeast Hunt Unit), and South Carolina. Experimental Canada goose seasons of up to 25 days during September 1–25 may be selected in Crawford County, Pennsylvania. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Mississippi Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected, except in the Upper Peninsula in Michigan, where the season may not extend beyond September 10, and in the Michigan Counties of Huron, Saginaw and Tuscola, where no special season may be held. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Central Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Pacific Flyway

General Seasons

Wyoming may select an 8-day season on Canada geese between September 1–15. This season is subject to the following conditions:

1. Where applicable, the season must be concurrent with the September portion of the sandhill crane season.
2. All participants must have a valid State permit for the special season.
3. A daily bag limit of 2, with season and possession limits of 4 will apply to the special season.

Oregon may select a special Canada goose season of up to 15 days during the period September 1–15. In addition, in the NW goose management zone, a 15-day season may be selected during the period September 1–20. Any portion of the season selected between September 16 and 20 will be considered experimental. Daily bag limits may not exceed 5 Canada geese. In the NW goose zone, at a minimum, Oregon must provide an annual evaluation of the number of dusky Canada geese present in the hunt zone during the period September 16–20 and agree to adjust seasons as necessary to avoid any potential harvest of dusky Canada geese.

Washington may select a special Canada goose season of up to 15 days during the period September 1–15. Daily bag limits may not exceed 3 Canada geese.

Idaho may select a 15-day season in the special East Canada Goose Zone, as described in State regulations, during the period September 1–15. All participants must have a valid State permit and the total number of permits issued is not to exceed 110 for this zone. The daily bag limit is 2.

Idaho may select a 7-day Canada Goose Season during the period September 1–15 in Nez Perce County, with a bag limit of 4.

California may select a 9-day season in Humboldt County during the period September 1–15. The daily bag limit is 2.

Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Regular goose seasons may open as early as September 19 in Wisconsin and September 26 in the Upper Peninsula of Michigan. Season lengths and bag and possession limits will be the same as those in effect last year, but are subject to change during the late-season regulations process.

Sandhill Cranes

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal sandhill crane hunting permit in their possession while hunting.

Special Seasons in the Central and Pacific Flyways:

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may

select seasons for hunting sandhill cranes within the range of the Rocky Mountain. Population subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils. Seasons in Idaho are experimental.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and January 20 in the Atlantic Flyway, and between September 1 and the Sunday nearest January 20 (January 17) in the Mississippi and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks and no frameworks are provided in this document.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 20 on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits: Clapper and King Rails—In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails—In the Atlantic, Mississippi, and Central Flyways and the Pacific-Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Common Snipe

Outside Dates: Between September 1 and February 28, except in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 6 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 19) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 30 days in the Atlantic Flyway and 45 days in the Central and Mississippi Flyways. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 24 days.

Band-tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with bag and possession limits of 2 and 2 band-tailed pigeons, respectively.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 7.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 30 consecutive days, with a daily bag limit of 5 band-tailed pigeons.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Mourning Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. The hunting seasons in the South Zones of Alabama, Florida, Georgia, Louisiana, and Mississippi may commence no earlier than September 20. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited mourning dove season may be held concurrently with that special season (see white-winged dove frameworks).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 20 and January 25.

C. Each zone may have a daily bag limit of 12 doves (15 under the alternative) in the aggregate, no more than 2 of which may be white-tipped doves, except that during the special white-winged dove season, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

Hunting Seasons and Daily Bag Limits: Idaho, Nevada, Oregon, Utah, and Washington—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves (in Nevada, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate).

Arizona and California—Not more than 60 days which may be split between two periods, September 1–15 and November 1-January 15. In Arizona, during the first segment of the season, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During the remainder of the season, the daily bag limit is restricted to 10 mourning doves. In California, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

White-winged and White-tipped Doves

Hunting Seasons and Daily Bag Limits: Except as shown below, seasons in Arizona, California, Florida, Nevada, New Mexico, and Texas must be concurrent with mourning dove seasons.

Arizona may select a hunting season of not more than 30 consecutive days, running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves.

In Florida, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate, of which no more than 4 may be white-winged doves.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

In New Mexico, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate.

In Texas, the daily bag limit may not exceed 12 doves (15 under the alternative) in the aggregate, of which not more than 2 may be white-tipped doves.

In addition, Texas may also select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of five zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. The hunting season is closed on Aleutian Canada geese, emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. The basic limits may include no more than 1 canvasback daily and 3 in possession.

In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, common and king eiders, oldsquaw, harlequin, and common and red-breasted mergansers, singly or in the aggregate of these species.

Light Geese—A basic daily bag limit of 3 and a possession limit of 6.

Dark Geese—A basic daily bag limit of 4 and a possession limit of 8.

Dark-goose seasons are subject to the following exceptions:

1. In Units 9(e) and 18, the limits for dark geese are 3 daily and 6 in possession.

2. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16. A special, permit only Canada goose season may be offered on Middleton Island. No more than 10 permits can be issued. A mandatory goose identification class is required . Hunters must check-in and check-out. Bag limit of 1 daily and 1 in possession. Season to close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

3. In Unit 10 (except Unimak Island), the taking of Canada geese is prohibited.

4. In Unit 9(D) and the Unimak Island portion of Unit 10, the limits for dark geese are 6 daily and 12 in possession.

Brant—A daily bag limit of 2.

Common snipe—A daily bag limit of 8.

Sandhill cranes—A daily bag limit of 3.

Tundra Swans—Open seasons for tundra swans may be selected subject to the following conditions:

1. All seasons are by registration permit only.

2. All season framework dates are September 1—October 31.

3. In GMU 18, no more than 500 permits may be issued during the operational season. No more than 3 tundra swans permits may be issued per hunter and permits must be issued sequentially one at a time, upon filing a harvest report.

4. In GMU 22, no more than 300 permits may be issued during the operational season authorizing each permittee to take 1 tundra swan per season.

5. In GMU 23, no more than 300 permits may be issued during the experimental season. No more than 3 tundra swans permits may be issued per hunter and permits must be issued sequentially, one at a time, upon filing a harvest report. The experimental season evaluation must adhere to the guidelines for experimental seasons as described in the Pacific Flyway Management Plan for the Western Population of (Tundra) Swans.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida, mourning, and white-winged doves in the aggregate. Not to exceed 5 scaly-naped pigeons.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe:

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits: Ducks—Not to exceed 6.

Common moorhens—Not to exceed 6.

Common snipe—Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck,

fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves, or pigeons in the Virgin Islands.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; Common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Mourning and White-winged Doves

Alabama

South Zone—Baldwin, Barbour, Coffee, Conecuh, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone—Remainder of the State.

California

White-winged Dove Open Areas—Imperial, Riverside, and San Bernardino Counties.

Florida

Northwest Zone—The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone—Remainder of State.

Georgia

Northern Zone—That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County; thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of the Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County, to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence west along the southern border of Candler County to the Ohoopee River; thence north along the western border of Candler County to Bulloch County; thence north along the western border of Bulloch County to U.S. Highway 301; thence northeast along U.S. Highway 301 to the South Carolina line.

South Zone—Remainder of the State.

Louisiana

North Zone—That portion of the State north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

South Zone—The remainder of the State.

Mississippi

South Zone—The Counties of Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Marion, Pearl River, Perry, Pike, Stone, and Walthall.

North Zone—The remainder of the State.

Nevada

White-winged Dove Open Areas—Clark and Nye Counties.

Texas

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to Uvalde; south on U.S. 83 to TX 44; east along TX 44 to TX 16 at Freer; south along TX 16 to TX 285 at Hebbronville; east along TX 285 to FM 1017; southwest along FM 1017 to TX 186 at Linn; east along TX 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Area with additional restrictions—Cameron, Hidalgo, Starr, and Willacy Counties.

Central Zone—That portion of the State lying between the North and South Zones.

Band-tailed Pigeons

California

North Zone—Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone—The remainder of the State.

New Mexico

North Zone—North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone—Remainder of the State.

Washington

Western Washington—The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone—That portion of the State north of NJ 70.

South Zone—The remainder of the State.

Special September Canada Goose Seasons

Atlantic Flyway

Connecticut

North Zone—That portion of the State north of I–95.

Maryland

Eastern Unit—Anne Arundel, Calvert, Caroline, Cecil, Charles, Dorchester, Harford, Kent, Queen Annes, St. Marys, Somerset, Talbot, Wicomico, and Worcester Counties, and those portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Western Unit—Allegany, Carroll, Frederick, Garrett, Montgomery, and Washington Counties, and those portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Massachusetts

Western Zone—That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone—That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Early-season Hunt Unit—Cheshire, Hillsborough, Rockingham, and Strafford Counties.

New York

Lake Champlain Zone—The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone—That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone—That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border, except for the Montezuma Zone.

Montezuma Zone—Those portions of Cayuga, Seneca, Ontario, Wayne, and Oswego Counties north of U.S. Route 20, east of NYS Route 14, south of NYS Route 104, and west of NYS Route 34.

Northeastern Zone—That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone—The remaining portion of New York.

North Carolina

Northeast Hunt Unit—Counties of Bertie, Camden, Chovan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

South Carolina

Early-season Hunt Unit—Clarendon County and those portions of Orangeburg County north of SC Highway 6 and Berkeley County north of SC Highway 45 from the Orangeburg County line to the junction of SC Highway 45 and State Road S–8–31 and west of the Santee Dam.

Mississippi Flyway

Illinois

Northeast Canada Goose Zone—Cook, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties.

North Zone: That portion of the State outside the Northeast Canada Goose Zone and north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I-280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State outside the Northeast Canada Goose Zone and south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I-70, then east along I–70 to the Indiana border.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Minnesota

Twin Cities Metropolitan Canada Goose Zone

A. All of Hennepin and Ramsey Counties.

B. In Anoka County, all of Columbus Township lying south of County State Aid Highway (CSAH) 18, Anoka County; all of the cities of Ramsey, Andover, Anoka, Coon Rapids, Spring Lake Park, Fridley, Hilltop, Columbia Heights, Blaine, Lexington, Circle Pines, Lino Lakes, and Centerville; and all of the city of Ham Lake except that portion lying north of CSAH 18 and east of U.S. Highway 65.

C. That part of Carver County lying north and east of the following described line: Beginning at the northeast corner of San Francisco

Township; thence west along the north boundary of San Francisco Township to the east boundary of Dahlgren Township; thence north along the east boundary of Dahlgren Township to U.S. Highway 212; thence west along U.S. Highway 212 to State Trunk Highway (STH) 284; thence north on STH 284 to County State Aid Highway (CSAH) 10; thence north and west on CSAH 10 to CSAH 30; thence north and west on CSAH 30 to STH 25; thence east and north on STH 25 to CSAH 10; thence north on CSAH 10 to the Carver County line.

D. In Scott County, all of the cities or Shakopee, Savage, Prior Lake, and Jordan, and all of the Townships of Jackson, Louisville, St. Lawrence, Sand Creek, Spring Lake, and Credit River.

E. In Dakota County, all of the cities of Burnsville, Eagan, Mendota Heights, Mendota, Sunfish Lake, Inver Grove Heights, Apple Valley, Lakeville, Rosemount, Farmington, Hastings, Lilydale, West St. Paul, and South St. Paul, and all of the Township of Nininger.

F. That portion of Washington County lying south of the following described line: Beginning at County State Aid Highway (CSAH) 2 on the west boundary of the county; thence east on CSAH 2 to U.S. Highway 61; thence south on U.S. Highway 61 to State Trunk Highway (STH) 97; thence east on STH 97 to the intersection of STH 97 and STH 95; thence due east to the east boundary of the State.

Northwest Goose Zone (included for reference only, not a special September Goose Season Zone)—That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Five Goose Zone—That portion of the State encompassed by a line extending north from the Iowa border along U.S. Interstate Highway 35 to the south boundary of the Twin Cities Metropolitan Canada Goose Zone, then west and north along the boundary of the Twin Cities Metropolitan Canada Goose Zone to U.S. Interstate 94, then west and north on U.S. Interstate 94 to the North Dakota border.

Two Goose Zone—That portion of the State to the north of a line extending east from the North Dakota border along U.S. Interstate 94 to the boundary of the Twin Cities Metropolitan Canada Goose Zone, then north and east along the Twin Cities Metropolitan Canada Goose Zone boundary to the Wisconsin border, except the Northwest Goose Zone and that portion of the State encompassed by a line extending north from the Iowa border along U.S. Interstate 35 to the south boundary of the Twin Cities Metropolitan Canada Goose Zone, then east on the Twin Cites Metropolitan Canada Goose Zone boundary to the Wisconsin border.

Tennessee

Middle Tennessee Zone—Those portions of Houston, Humphreys, Montgomery, Perry, and Wayne Counties east of State Highway 13; and Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Moore, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, and Wilson Counties.

Cumberland Plateau Zone—Bledsoe, Bradley, Clay, Cumberland, Dekalb, Fentress, Grundy, Hamilton, Jackson, Marion, McMinn, Meigs, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Van Buren, Warren, and White Counties.

East Tennessee Zone—Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Monroe, Sevier, Sullivan, Unicoi, Union, and Washington Counties.

Wisconsin

Early-Season Subzone A—That portion of the State encompassed by a line beginning at the Lake Michigan shore in Sheboygan, then west along State Highway 23 to State 67, southerly along State 67 to County Highway E in Sheboygan County, southerly along County E to State 28, south and west along State 28 to U.S. Highway 41, southerly along U.S. 41 to State 33, westerly along State 33 to County Highway U in Washington County, southerly along County U to County N, southeasterly along County N to State 60, westerly along State 60 to County Highway P in Dodge County, southerly along County P to County O, westerly along County O to State 109, south and west along State 109 to State 26, southerly along State 26 to U.S. 12, southerly along U.S. 12 to State 89, southerly along State 89 to U.S. 14, southerly along U.S. 14 to the Illinois border, east along the Illinois border to the Michigan border in Lake Michigan, north along the Michigan border in Lake Michigan to a point directly east of State 23 in Sheboygan, then west along that line to the point of beginning on the Lake Michigan shore in Sheboygan.

Early-Season Subzone B—That portion of the State between Early-Season Subzone A and a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Central Flyway

South Dakota

September Canada Goose Unit—Brookings, Clark, Codington, Day, Deuel, Grant, Hamlin, Kingsbury, Lake, McCook, Moody Counties, and Miner County east of SD 25, and that portion of Minnehaha County north and west of a line beginning at the junction of County 130 (Renner Road) and the Minnesota border, then west on County 130 to I–29 and along I–29 to the Lincoln County line.

Pacific Flyway

Idaho

East Zone—Bonneville, Caribou, Fremont and Teton Counties.

Oregon

Northwest Zone—Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties.

Southwest Zone—Coos, Curry, Douglas, Jackson, Josephine, and Klamath Counties.

East Zone—Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union and Wasco Counties.

Washington

Southwest Zone—Clark, Cowlitz, Pacific, and Wahkiakum Counties.

East Zone—Asotin, Benton, Columbia, Garfield, Klickitat, and Whitman Counties.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Farson-Edon Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

Teton Area—Those portions of Teton County described in State regulations.

Ducks

Mississippi Flyway

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Sandhill Cranes

Central Flyway

Colorado

Regular-Season Open Area—The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

Regular Season Open Area—That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

New Mexico

Regular-Season Open Area—Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Middle Rio Grande Valley Area—The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Southwest Zone—Sierra, Luna, and Dona Ana Counties.

Oklahoma

Regular-Season Open Area—That portion of the State west of I–35.

Texas

Regular-Season Open Area—That portion of the State west of a line from the International Toll Bridge at Brownsville along U.S. 77 to Victoria; U.S. 87 to Placedo; Farm Road 616 to Blessing; State 35 to Alvin; State 6 to U.S. 290; U.S. 290 to Austin; I–35 to the Texas-Oklahoma border.

North Dakota

Regular-Season Open Area—That portion of the State west of U.S. 281.

South Dakota

Regular-Season Open Area—That portion of the State west of U.S. 281.

Montana

Regular-Season Open Area—The Central Flyway portion of the State except that area south of I–90 and west of the Bighorn River.

Wyoming

Regular-Season Open Area—Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Riverton-Boysen Unit—Portions of Fremont County.

Park and Bighorn County Unit—Portions of Park and Bighorn Counties.

Pacific Flyway

Arizona

Special-Season Area—Game Management Units 30A, 30B, 31, and 32.

Montana

Special-Season Area—See State regulations.

Utah

Special-Season Area—Rich County.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Eden-Farson Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

All Migratory Game Birds in Alaska

North Zone—State Game Management Units 11–13 and 17–26.

Gulf Coast Zone—State Game Management Units 5–7, 9, 14–16, and 10—Unimak Island only.

Southeast Zone—State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone—State Game Management Unit 10—except Unimak Island.

Kodiak Zone—State Game Management Unit 8.

All Migratory Birds in the Virgin Islands

Ruth Cay Closure Area—The island of Ruth Cay, just south of St. Croix.

All Migratory Birds in Puerto Rico

Municipality of Culebra Closure Area—All of the municipality of Culebra.

Desecheo Island Closure Area—All of Desecheo Island.

Mona Island Closure Area—All of Mona Island.

El Verde Closure Area—Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for one kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas—All of Cidra Municipality and portions of Aguas, Buenas, Caguas, Cayer, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of beginning.

BILLING CODE 4310–55–P

REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 1998-99 SEASON

	ATLANTIC FLYWAY				MISSISSIPPI FLYWAY (a)				CENTRAL FLYWAY (b)				PACIFIC FLYWAY (c)(d)			
	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB
Begining Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Oct. 1	Oct. 1	Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1
Closing Date	Jan. 20	Jan. 20	Jan. 20	Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20
Season Length	20	30	45	60	20	30	45	60	25	39	60	74	38	60	86	107
Daily Bag/	3	3	6	6	3	3	6	6	3	3	6	6	4	4	7	7
Possession	6	6	12	12	6	6	12	12	6	6	12	12	8	8	14	14
Species/Sex Limits within the Overall Daily Bag Limit																
Mallard (Total/Female)	3/1	3/1	4/2	4/2	2/1	2/1	4/1	4/2	3/1	3/1	5/1	5/2	3/1	3/1	5/2	7/2
Pintail	<----------ACCORDING TO THE PINTAIL INTERIM HARVEST STRATEGY---------->															
Black Duck	1	1	1	1	1	1	1	1	-	-	-	-	-	-	-	-
H. Merganser	1	1	1	1	1	1	1	1	1	1	1	1	-	-	-	-
Canvasback	<----------0 OR 1, ACCORDING TO THE SERVICE'S INTERIM CANVASBACK HARVEST MANAGEMENT STRATEGY---------->															
Redhead	2	2	2	2	1	1	2	2	1	1	2	2	2	2	2	2
Wood Duck	2	2	2	2	2	2	2	2	2	2	2	2	-	-	-	-
Whistling Ducks	1	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Harlequin	Closed	Closed	Closed	Closed	-	-	-	-	-	-	-	-	-	-	-	-
Mottled Duck	1	1	1	1	3	3	3	3	1	1	1	1	-	-	-	-

(a) In the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee, the season length and framework closing date under the moderate and liberal packages will be determined in the late-season regulations process.

(b) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway with the exception of season length. Additional days would be allowed under the various options as follows: very restrictive - 8, restrictive - 12, moderate and liberal - 23. Under all options, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Mangement Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all options except the liberal option, an additional 7 days would be allowed.

(c) In Alaska, framework dates, bag limits, and season length would be different than the remainder of the Pacific Flyway. The bag limit would be 5-7 under the very restrictive and restrictive options, and 8-10 under the moderate and liberal options. There would be no restrictions on pintails, and canvasback limits would follow those for the remainder of the Pacific Flyway. Under all options, season length would be 107 days and framework dates would be Sep 1 - Jan 26.

[FR Doc. 98–19124 Filed 7–16–98; 8:45am]

BILLING CODE 4310–55–C

federal register

Friday
July 17, 1998

Part IV

Department of Agriculture

Rural Utilities Service

7 CFR Part 1773

Policy on Audits of RUS Borrowers; Final Rule

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1773

RIN 0572–AA93

Policy on Audits of RUS Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) hereby amends its regulations on audits of RUS borrowers. This final rule incorporates changes to the audit regulations necessitated by the Single Audit Act Amendments of 1996 and by Office of Management and Budget (OMB) Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations effective for audits of fiscal years beginning after June 30, 1996. This rule also clarifies the peer review requirements in the interim final rule for certified public accountants (CPA) performing audits of RUS borrowers, adopts individual management letters for electric and telecommunications borrowers, and revises the language of the auditor's report and management letter to conform with technical guidance provided by the American Institute of Certified Public Accountants (AICPA).

EFFECTIVE DATE: July 17, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Annan, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Utilities Service, Stop 1523, room 2221, South Building, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250–1523, telephone number (202) 720–5227.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12998, Civil Justice Reform. RUS has determined that this final rule meets the applicable standards provided in section 3 of the Executive Order.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have significant impact on a substantial number of small entities defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and therefore, the Regulatory Flexibility Act does not apply to this rule.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this final rule will be submitted for approval to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 34, as amended) under control number 0572–0095. The paperwork contained in this rule will not be effective until approved by OMB.

Send questions or comments regarding this burden or any aspect of this collection, including suggestions for reducing the burden to Mr. F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, Stop 1522, 1400 Independence Avenue SW, Washington, DC 20250–1522.

National Environmental Policy Act Certification

The RUS Administrator has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969(42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance Programs under numbers 10.850—Rural Electrification Loans and Loan Guarantees, 10.851—Rural Telephone Loans and Loan Guarantees, and 10.852—Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A notice of final rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR. 47034) exempts RUS electric loans and loan guarantees from coverage under this order.

National Performance Review

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Unfunded Mandates

This rule contains no Federal Mandates (under the regulatory provision of Title II of the Unfunded Mandate Reform Act) for State, local, and tribal governments or the private sector. Thus this rule is not subject to the requirements of section 202 and 205 of the Unfunded Mandate Reform Act.

Background

This final rule implements the changes required by the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 *et seq.*) and the revised OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations (31 U.S.C. 7501 *et seq.*). The purposes of the Single Audit Act Amendments of 1996 were to promote sound financial management with respect to Federal awards administered by non-Federal entities, establish uniform requirements for audits of Federal awards, promote the efficient and effective use of audit resources, and reduce the burden on State and local governments, Indian tribes, and non-profit organizations. OMB Circular A–128, Audits of States and Local Governments, was merged with the former OMB Circular A–133, Audits of Institutions of Higher Education and Other Non-Profit Institutions, to form the revised OMB Circular A–133. The revised Circular implements the Single Audit Act Amendments of 1996 and raises the expenditure threshold. The Circular requires auditors to issue a report on compliance and on internal control over financial reporting and a report on compliance with requirements applicable to each major program and internal control over compliance in accordance with OMB Circular A–133.

Previously, separate reports were issued on compliance and internal controls. With the issuance of the revised Circular A–133, the AICPA developed illustrative report examples that merged the two reports into one report on compliance and on internal control over financial reporting.

On January 3, 1996, RUS published 61 FR 104 an interim final rule with request for comments amending part 1773 to comply with the 1994 revision of Generally Accepted Government Auditing Standards (GAGAS) and Statement on Auditing Standards (SAS) No. 74, Compliance Auditing Considerations in Audits of Governmental Entities and Recipients of Governmental Financial Assistance. The January 3, 1996, interim final rule also amended RUS' peer review requirements to reflect the merger of the Private Companies Practice Section of

the AICPA and the AICPA quality review program and to extend the time period for peer reviews to 42 months. This final rule amends part 1773 in response to the comments filed on the interim final rule.

Section 1773.34, Management Letter, specifies the minimum requirements for the CPA's management letter. Among these is the requirement for the CPA to state whether the information submitted to RUS in its most recent December 31 RUS Form 7, Financial and Statistical Report; Form 12, Operating Report—Financial; or Form 479, Financial and Statistical Report for Telephone Borrowers, is in agreement with the borrower's records. This final rule clarifies that section to require the CPA's statement to indicate whether the most recent December 31 RUS Form 7, 12, or 479, agrees with the borrower's ''audited'' records if a borrower has a December 31 year end. For borrowers with a year end other than December 31, the CPA must state whether the information provided appears reasonable based upon the audit procedures performed.

The management letter for electric borrowers was also modified to conform with changes in § 1717.612, which states that funds are cash proceeds from loans made or guaranteed by RUS; § 1717.618 to redefine ''substantially all'' in management, operation, or maintenance contracts covering the borrower's system as being 90 percent; and § 1717.609 to delete the provision requiring the CPA to determine whether RUS approval was obtained for contracts between the borrower and its manager.

The management letter for telecommunications borrowers was changed to include additional requirements for compliance with RUS telecommunications loan and security instrument provisions. The rule clarifies that section to require the CPA to determine whether the borrower is in compliance with the provisions pertaining to the funded reserve requirements and net plant to secured debt ratio requirements for RUS loans approved after June 10, 1991, and before October 7, 1997, and the funded reserve requirement for RTB loans approved after June 10, 1991.

Both the management letters for electric and telecommunications borrowers were modified to remove the negative assurance language pertaining to items not tested in conformance with GAGAS.

The January 3, 1996, interim final rule also amended Sections 1773.5, Qualifications of CPA, and 1773.6, Audit Agreement, to include changes necessitated by the 1994 revision of GAGAS. In that amendment, the abbreviation OIG (Office of Inspector General, United States Department of Agriculture) was inadvertently replaced by OGC (Office of General Counsel) in paragraph 1773.5(c)(6)(iii) and paragraph 1773.6(a)(6). This final rule corrects that error.

The renaming of the Borrower Accounting Division (BAD) to the Program Accounting Services Division (PASD) was not incorporated into the interim final rule. This final rule serves to incorporate the name change by deleting all references to BAD and replacing them with PASD.

This final rule also adds a definition of the term ''borrower'' to mean all entities which receive financial assistance in the form of loans, loan guarantees, or grants from RUS.

Comments

An interim final rule entitled ''Policy on Audits of RUS Borrowers,'' published January 3, 1996, at 61 FR 104, invited interested parties to submit comments on or before March 4, 1996. Comments were received from three accounting firms, the Assistant Administrator, Telecommunications Program, the Deputy Assistant Administrator, Electric Program, and from OIG. The following paragraphs address the topics that were discussed by the two commenters.

Comment. The revisions to §§ 1773.33 (e)(1)(iii) and 1773.33(e)(2)(iii) require the CPA to state whether the information submitted by a borrower to RUS in its most recent December 31 RUS Form 7, Financial and Statistical Report; Form 12, Operating Report-Financial; or Form 479, Financial and Statistical Report for Telephone Borrowers, is in agreement with the borrower's ''audited'' records. Commenters expressed concern that this requirement did not properly consider borrowers with fiscal year ends other than December 31. One commenter asked if this requirement necessitated a calendar year audit or alternate audit procedures to comply.

Response. The intent of this section was to require CPAs to state whether the information submitted by a borrower to RUS in its most recent December 31 RUS Form 7, 12, or 479 was in agreement with the borrower's audited records if the borrower has a December 31 year end. For borrowers with year ends other than December 31, the section was intended to require the CPA to state whether the information provided appeared reasonable based upon the procedures performed during the audit. The final rule has been amended to clarify this requirement.

Comment. When 7 CFR part 1717 was revised by the electric program, certain modifications affected part 1773. In § 1717.608, RUS approval of contracts between the borrower and its manager are no longer required. Additionally, the electric program determined that the quantification of ''substantial part'' was too low and raised it to 90 percent. Section 1717.612 defined funds as cash proceeds from loans made or guaranteed by RUS. These changes should to be incorporated into part 1773.

Response. This final rule has been amended to incorporate the changes necessitated by revisions made to part 1717.

Comment. The revisions to § 1773.33 (e)(2) excluded a requirement for compliance with RUS loan and security instrument provision for telecommunications borrowers. Under existing regulations, if the loan maturity period selected by the borrower exceeds the expected composite economic life of the facilities financed by a period of more than three years, the loan is conditioned upon the borrower electing to maintain a net plant to secured debt ratio of at least 1.2, or a funded reserve in such amount that the balance of the reserve plus the value of the facilities less depreciation be at least equal to the remaining principal payments on the loan.

Response. It was not our intent to omit this requirement for compliance with the RUS loan and security instrument from the management letter. The final rule has been amended to include this requirement.

Comment. One commenter noted that the management letter in part 1773 included a sentence that was in conflict with GAGAS. It was his opinion that the sentence concerning negative assurance should be eliminated from the management letter.

Response. We agree with the comment and we have deleted this sentence from the management letter.

Comment. The revision to § 1773.5 (c)(4)(C) set forth in the January 3, 1996, interim final rule extended the timeframe for submission of peer reviews to 42 months. Commenters expressed concern that the 42 months timeframe did not meet the requirements of GAGAS.

Response. The intent of this section was to provide a 6-month period for CPAs to submit their peer review reports to RUS. Upon further review of the interim final rule, we have revised the language in the final rule to require completion of peer reviews within 36

months of the issuance of the prior review in accordance with GAGAS.

List of Subjects in 7 CFR Part 1773

Accounting, Electric power, Loan programs—communications, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

For reasons set forth in the preamble, RUS hereby amends 7 CFR part 1773 chapter XVII as follows:

PART 1773—POLICY ON AUDITS OF RUS BORROWERS

1. The authority citation for part 1773 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 1921 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. In part 1773 all references to items indicated in the left column are revised to read as stated in the right column:

Remove BAD—Borrower Accounting Division	Add PASD—Program Accounting Services Division
Director, BAD	Assistant Administrator, Program Accounting and Regulatory Analysis.
Telephone Program report on compliance	Telecommunications Program report on compliance and on internal controls over financial reporting.
Report on internal controls	Report on compliance and on internal controls over financial reporting.
Report on compliance and internal controls	Report on compliance and on internal controls over financial reporting.

3. Section 1773.2 is amended by adding the definition for Borrower.

§ 1773.2 Definitions.

* * * * *

Borrower means an entity that has an outstanding RUS, RTB, or FFB loan or loan guarantee, or that has received a grant for electric, telecommunications, distance learning, or telemedicine purposes under the act.

* * * * *

4. Section 1773.3 is amended by removing paragraph (d)(2), redesignating paragraphs (d)(3) and (d)(4) to (d)(2) and (d)(3) and revising paragraphs (d) introductory text, (d)(1) through (d)(3) introductory text, (d)(3)(ii) and (e).

§ 1773.3 Annual audit.

* * * * *

(d) A borrower that qualifies as a unit of state or local government or Indian tribe as such terms are defined in the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*), the Single Audit Act Amendments of 1996 (31 U.S.C. 7505 *et seq.*) and OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations (copy available from the Executive Office of the President, Publication Services, 725 17th St., NW., Suite 2200, Washington, DC 20502; 202–395–7332), must comply with this part as follows:

(1) A borrower that expends $300,000 or more in a year in Federal awards must have an audit performed and submit an auditor's report meeting the requirements of the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996.

(2) A borrower that expends less than $300,000 in Federal awards during the year must have an audit performed in accordance with the requirements of this part.

(3) A borrower must notify RUS, in writing, within 30 days of the as of audit date, of the total Federal awards expended during the year and must state whether it will have an audit performed in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996, or this part.

* * * * *

(ii) If an audit is performed in accordance with the Single Audit Act of 1984 and the Single Audit Act Amendments of 1996, an auditor's report that meets the requirements of the Single Audit Act of 1984, and the Single Audit Act Amendments of 1996, will be sufficient to satisfy that borrower's obligations under this part.

(e) OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations does not apply to audits of RUS electric and telecommunications cooperatives and commercial telecommunications borrowers.

* * * * *

5. Section 1773.5 is amended by revising paragraphs (c) introductory text and (c)(6) (iii) to read as follows:

§ 1773.5 Qualifications of CPA.

* * * * *

(c) *Peer review requirement.* The CPA must belong to and participate in a peer review program, and must have undergone a satisfactory peer review of the accounting and audit practice conducted by an approved peer review program under paragraph (c)(4) of this section, unless a waiver is granted under paragraph (c)(7) of this section. The reviewing organization must not be affiliated with or have had its most recent peer review conducted by the organization currently being reviewed (reciprocal reviews). After the initial peer review has been performed, the CPA must undergo a peer review of the accounting and audit practice within 36 months of the issuance of the previous peer review or at such additional times as designated by the peer review executive committee.

* * * * *

(6) * * *

(iii) A copy of the peer review report, accompanying letter of comment, and the partners' inspections must be made available to OIG, upon request.

* * * * *

6. Section 1773.6 is amended by revising paragraph (a)(6) to read as follows:

§ 1773.6 Audit agreement.

(a) * * *

(6) The CPA will make all audit-related documents, including auditor's reports, workpapers, and management letters available to RUS or its representatives (OIG and GAO), upon request, and will permit the photocopying of all audit-related documents; and

* * * * *

7. Section 1773.30 is amended by removing paragraph (a)(3), and redesignating paragraph (a)(4) to (a)(3) and revising paragraphs (a)(2) and (a)(3) to read as follows:

§ 1773.30 General.

(a) * * *

(2) A report on compliance and on internal control over financial reporting, examples of which are set forth in appendices A, exhibits 2 and 3 (Electric) and B, exhibits 4 and 5 (Telecommunications) of this part 1773; and

(3) A management letter, an example of which is set forth in appendix C of this part 1773.

* * * * *

8a. Section 1773.31 is amended by revising the last sentence to read as follows:

§ 1773.31 Auditor's Report.

* * * This report must be signed by the CPA, cover all statements presented, and refer to the separate report on compliance and on internal control over financial reporting issued in conjunction with the auditor's report.

8b. Section 1773.32 is revised to read as follows:

§ 1773.32 Report on compliance and on internal control over financial reporting.

As required by GAGAS, the CPA must prepare a written report on the tests performed for compliance with applicable laws, regulations, contracts, and grants, and on the borrower's internal control structure and on the assessment of control risk made as part of the financial statement audit. This report must be signed by the CPA and must include, as a minimum:

(a) The scope of the CPA's work to obtain an understanding of the borrower's internal control structure and in assessing the control risk;

(b) A description of the reportable conditions noted which include material weaknesses identified as a result of the CPA's work in understanding and assessing control risk;

(c) If no reportable instances of noncompliance and no reportable conditions were found, the CPA must issue a report as illustrated in appendix A, exhibit 2 (Electric), and appendix B, exhibit 4 (Telecommunications) of this part 1773;

(d) If material instances of noncompliance and reportable conditions are identified, the CPA must issue a report as illustrated in appendix A, exhibit 3 (Electric), and appendix B, exhibit 5 (Telecommunications) of this part 1773;

(e) Other nonmaterial instances of noncompliance should not be disclosed in the report on compliance and on internal control over financial reporting, but should be reported in a separate communication to the board of directors, preferably in writing. All such communications must be documented in the workpapers and submitted to RUS in compliance with § 1773.21.

(f) If the CPA has issued a separate letter detailing immaterial instances of noncompliance, the report on compliance and on internal control over financial reporting must be modified to include a statement such as:

> We noted certain immaterial instances of noncompliance that we have reported to the management of (borrower's name) in a separate letter dated (month, day, year).

(g) If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, the report on compliance and on internal control over financial reporting must be modified to include a statement such as:

> However, we noted other matters involving the internal control over financial reporting that we have reported to the management of (borrower's name) in a separate letter dated (month, day, year).

(h) The report must contain the status of known but uncorrected significant or material findings and recommendations from prior audits that affect the current audit objective.

9. Section 1773.33 is removed.

10. Section 1773.34 is redesignated to § 1773.33 and amended by removing paragraph (e)(1)(ii)(E), revising paragraphs (e)(1)(i), (e)(1)(ii) introductory text, (e)(1)(ii)(C) and (e)(1)(iii) and (e)(2)(iii) and adding (e)(2)(iv) to read as follows:

§ 1773.33 Management letter.

* * * * *

(e) * * *

(1) * * *

(i) The requirement for funds to be deposited in banks or other depositories designated in the loan documents or approved by RUS. For purposes of this part, funds shall be defined as cash proceeds from loans made or guaranteed by RUS in accordance with 7 CFR 1717.612.

(ii) The requirement for a borrower to obtain written approval of mortgagees to enter into any contract for the management, operation, or maintenance of the borrower's system if the contract covers all or substantially all (90 percent) of the electric system. For purposes of this part, the following contracts shall be deemed as requiring RUS approval:

* * * * *

(C) Operations and maintenance contracts in which the borrower has contracted to have another borrower or other entity operate and/or maintain all or substantially all (90 percent) of the physical plant facilities of the plant.

* * * * *

(iii) The requirement for a borrower to prepare and furnish mortgagees annual financial and statistical reports on the borrower's financial condition and operations. For borrowers with a December 31 year end, the CPA must state whether the information represented by the borrower as having been submitted to RUS in its most recent December 31 RUS Form 7 or Form 12 is in agreement with the borrower's audited records. For borrowers with a year end other than December 31, the CPA must state whether the information appears reasonable based upon the audit procedures performed. If the borrower represents that an amended report has been filed as of December 31, the comments must relate to the amended report.

(2) * * *

(iii) The requirement for a borrower to prepare and furnish mortgagees annual financial and statistical reports on the borrower's financial condition and operations. For borrowers with a December 31 year end, the CPA must state whether the information represented by the borrower as having been submitted to RUS in its most recent December 31 RUS Form 479 is in agreement with the borrower's audited records. For borrowers with a year end other than December 31, the CPA must state whether the information appears reasonable based upon the audit procedures performed. If the borrower represents that an amended report has been filed as of December 31, the comments must relate to the amended report.

(iv) The requirement that a borrower maintain either a net plant to secured debt ratio or a funded reserve.

(A) For loans approved after June 10, 1991, and before October 7, 1997, if a borrower selected a loan maturity period in excess of the expected economic life of the facilities financed, the borrower must maintain a secured debt ratio of at least 1.2 or a funded reserve. If, during the audit period, the borrower has been issued refunding notes that match the remaining composite economic life of the facilities thus eliminating the requirement, the auditor should so state.

(1) If the net plant to secured debt ratio option was selected, this ratio must be achieved one year following the first advance of funds.

(2) If the funded reserve option was selected, the reserve must be of such amount that the balance of the reserve plus the value of the facilities less depreciation be at least equal to the remaining principal payments on the loan. Funding of the reserve must begin within one year of approval of release of funds and must continue regularly over the composite economic life of the facilities financed.

(B) For loans approved after October 7, 1997, if a borrower selected a loan maturity period in excess of the expected economic life of the facilities financed, the borrower must maintain a funded reserve in such amount that the balance of the reserve plus the value of the facilities less depreciation be at least equal to the remaining principal

payments on the loan. Funding of the reserve must begin within one year of approval of release of funds and must continue regularly over the composite economic life of the facilities financed. If, during the audit period, the borrower has been issued refunding notes that match the remaining composite economic life of the facilities thus eliminating the requirement for maintaining the funded reserve requirement, the auditor should so state.

* * * * *

11. Reserve § 1773.34.

12. Appendix A to Part 1773 is amended by revising exhibits 1, 2, and 3, removing exhibits 4, 5, and 6, and redesignating exhibit 7 as exhibit 4 and revising it to read as follows:

Appendix A to Part 1773—Sample Auditor's Report for an Electric Cooperative

* * * * *

Exhibit 1—Sample Auditor's Report

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors, Center County Electric Cooperative: Independent Auditor's Report

We have audited the accompanying balance sheets of Center County Electric Cooperative as of December 31, 1998 and 1997, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of Center County Electric Cooperative's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards required that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center County Electric Cooperative as of December 31, 1998 and 1997, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

In accordance with Government Auditing Standards, we have also issued a report dated March 2, 1999, on our consideration of Center County Electric Cooperative's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants.

Certified Public Accountants

March 2, 1999

Exhibit 2—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA found No Reportable Instances of Noncompliance and No Material Weaknesses (No Reportable Conditions Identified).

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors

Center County Electric Cooperative:

We have audited the financial statements of Center County Electric Cooperative as of and for the years ended December 31, 1998 and 1997, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Electric Cooperative's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards. [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: However, we noted certain immaterial instances of noncompliance which we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 1999.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Electric Cooperative's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses. [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: However, we noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 1999.]

This report is intended for the information of the audit committee, management, the Rural Utilities Service, and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

March 2, 1999

Exhibit 3—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA found Reportable Instances of noncompliance and Reportable Conditions Identified.

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors

Center County Electric Cooperative:

We have audited the financial statements of Center County Electric Cooperative as of and for the years ended December 31, 1998 and 1997, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Electric Cooperative's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under Government Auditing Standards. [A description of the findings should be included in the report.][If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: We also noted certain immaterial instances of noncompliance which we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 1999.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center County Electric Cooperative's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect Center County Electric Cooperative's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. [A description of the reportable conditions should be included in the report.]

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe none of the reportable conditions described above is a material weakness. [If conditions believed to be material weaknesses are disclosed, the last sentence should be deleted and instead the report should identify which of the reportable conditions described above are considered to be material weaknesses.][If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: We also noted other matters involving the internal control over financial reporting which we have reported to the management of Center County Electric Cooperative in a separate letter dated March 2, 1999.]

This report is intended for the information of the audit committee, management, the Rural Utilities Service, and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

March 2, 1999

EXHIBIT 4—SAMPLE FINANCIAL STATEMENTS

CENTER TELEPHONE COMPANY BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 ASSETS (NOTES 1 AND 2)

	19X9	19X8
CURRENT ASSETS:		
Cash—Construction Funds	$21,000	$18,000
Cash—General Funds	128,300	140,083
Telecommunications Accounts.		
Receivable (less accumulated provision of $11,597 in 19X9 and $1,490 in 19X8)	139,642	122,623
Notes Receivable	2,500	3,000
Materials and Supplies	103,713	73,964
Prepayments (Note 3)	49,185	62,201
Other Current Assets	1,357	10,131
	445,697	430,002
NONCURRENT ASSETS:		
Nonregulated Investments: (Note 4)		
Net CATV Plant	413,511	407,086
Net Nonregulated Customer Premises Equipment	103,618	0
Deferred Maintenance and Retirements (Note 5)	40,000	45,000
	557,129	452,086
PROPERTY, PLANT, AND EQUIPMENT: (Note 6)		
Telecommunications Plant in Service	7,401,300	6,650,553
Telecommunications Plant Under Construction	67,626	199,092
Telecommunications Plant Adjustment (Note 7)	176,380	176,380
	7,645,306	7,026,025
Less: Accumulated Provision for Depreciation	1,760,587	1,504,255
	5,884,719	5,521,770
	6,887,545	6,403,858

The accompanying notes are an integral part of these statements.

CENTER TELEPHONE COMPANY BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 LIABILITIES AND EQUITIES

	19X9	19X8
CURRENT LIABILITIES:		
Accounts Payable	$123,689	$290,484
Notes Payable	61,600	70,400
Advance Billings and Payments	2,137	2,243
Customers Deposits	11,878	4,940
Current Maturities of Long-Term Debt (Note 8)	146,646	145,998
Accrued Taxes	242,076	224,566

CENTER TELEPHONE COMPANY BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 LIABILITIES AND EQUITIES—Continued

	19X9	19X8
Other Current Liabilities	8,500	9,079
	596,526	747,710
LONG-TERM DEBT:		
RUS Mortgage Notes (Note 8)	4,592,658	4,128,106
OTHER LIABILITIES AND DEFERRED CREDITS:		
Unamortized Investment Tax Credits (Note 10)	53,078	61,377
Deferred Income Taxes (Note 11)	37,137	35,039
	90,215	96,416
STOCKHOLDERS' EQUITY:		
Capital Stock—Common $2 par value—300,000 Shares Authorized; 102,600 Shares Outstanding 19X9 and 19X8	205,200	205,200
Additional Paid-in Capital	820,800	820,800
Retained Earnings (Note 8)	582,146	405,626
	1,608,146	1,431,626
	6,887,545	6,403,858

The accompanying notes are an integral part of these statements.

CENTER TELEPHONE COMPANY STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19X9	19X8
OPERATING REVENUES:		
Basic Local Network Services	$836,822	$862,205
Network Access Services	125,042	-0-
Long Distance Network Services	897,300	775,073
Miscellaneous	144,435	147,100
Less: Uncollectible Revenues	(24,000)	(24,500)
	1,979,599	1,759,878
OPERATING EXPENSES:		
Plant Specific Operations	564,486	480,509
Plant Nonspecific Operations	187,162	393,143
Depreciation and Amortization	274,691	
Customer Operations	94,473	78,772
Corporate Operations	157,453	134,127
	1,278,265	1,086,551
OPERATING TAXES:		
Federal and State Income.		
Taxes—Operating (Notes 10 and 11)	159,845	170,687
Other Operating Taxes	225,013	204,230
Provision for Deferred Taxes (Note 10)	31,566	29,468
Investment Credits—Net	6,201	1,640
	422,625	406,025
OPERATING INCOME	278,709	267,302
FIXED CHARGES:		
Interest on Long-Term Debt	88,432	85,854
Interest Charged to Construction Credit	(2,251)	(1,516)
	86,181	84,338
NONREGULATED INCOME—NET (Note 4)	19,902	10,593
NET INCOME FOR PERIOD	212,430	193,557
Retained Earnings—January 1, 19X9 and 19X8	405,626	235,153
Dividends Declared	(35,910)	(23,084)

CENTER TELEPHONE COMPANY STATEMENTS OF INCOME AND RETAINED EARNINGS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8—Continued

	19X9	19X8
Retained Earnings—December 31, 19X9 and 19X8	$582,146	$405,626
Earnings Per Share of Common Stock—Average	$2.07	$1.89

The accompanying notes are an integral part of these statements.

CENTER COUNTY TELEPHONE COMPANY STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19X9	19X8
CASH FLOWS FROM OPERATING ACTIVITIES:		
Cash Received from Consumers	$1,962,580	$1,733,289
Cash Paid to Suppliers and Employees	(1,159,158)	(960,459)
Interest Paid	(86,181)	(84,338)
Taxes Paid	(401,316)	(376,643)
Net Cash Provided by Operating Activities	315,925	311,849
CASH FLOWS FROM INVESTING ACTIVITIES:		
Construction and Acquisition of Plant	(619,281)	(507,617)
Investment in CATV Plant	(6,425)	(18,246)
Investment in Nonregulated CPE	(103,618)	
Plant Removal Costs	(18,359)	(27,216)
(Increase)/Decrease In:		
Materials Inventory	(29,749)	(19,478)
Notes Receivable	500	1,000
Deferred Maintenance and Retirements	5,000	(45,000)
Nonregulated Income	19,902	10,593
Net Cash Used in Investing Activities	(752,030)	(605,964)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Dividends Paid	(35,910)	(23,084)
Debt Proceeds	465,200	386,000
Payments on Short-term Debt	(8,800)	(7,500)
Increase/(Decrease) In:		
Consumer Deposits and Advance Payments	6,832	4,200
Net Cash Provided by Financing Activities	427,322	359,616
Net Increase/(Decrease) in Cash	(8,783)	65,501
Cash—Beginning of Year	158,083	92,582
Cash—End of Year	149,300	158,083

The accompanying notes are an integral part of these statements.

RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES:		
Net Margins	212,430	193,557
Less: Nonregulated Income	(19,902)	(10,593)
Net Income from Regulated Operations	192,528	182,964
Adjustments to Reconcile Net Margins to Net Cash Provided by Operating Activities:		
Depreciation and Amortization	274,691	253,509
Provision for Uncollectible Accounts Receivable	10,107	(3,610)
(Increase)/Decrease In:		
Customer and Other Accounts Receivable	(27,126)	(22,979)
Current and Accrued Assets—Other	8,774	5,119
Prepaid Taxes	10,000	(10,000)
Other Prepaid Expenses	3,016	(5,426)
Increase/(Decrease) In:		
Accounts Payable	(166,795)	(126,472)
Accrued Taxes	17,510	37,742
Other Current Liabilities	(579)	(638)
Deferred Credits	(6,201)	1,640
Total Adjustments	123,397	128,885
Net Cash Provided by Operating Activities	315,925	311,849

The accompanying notes are an integral part of these statements.

13. Appendix B to Part 1773 is amended by revising exhibits 1, 2, and 3, deleting exhibits 4, 5 and 6, and redesignating exhibit 7 as exhibit 4 and revising it to read as follows:

Appendix B to Part 1773–Sample Auditor's Report for A Class A or B Commercial Telecommunications Company

* * * * *

Exhibit 1—Same Auditor's Report

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors, Center Telephone Company: Independent Auditor's Report

We have audited the accompanying balance sheets of Center Telephone Company as of December 31, 1998 and 1997, and the related statements of revenue and patronage capital, and cash flows for the years then ended. These financial statements are the responsibility of Center Telephone Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our audit.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Center Telephone Company as of December 31, 1998 and 1997, and the results of its operations and its cash flows for the years then ended in conformity with general accepted accounting principles.

In accordance with Government Auditing Standards, we have also issued our report dated March 2, 1999, on our consideration of Center Telephone Company's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grants.

Certified Public Accountants

March 2, 1999

Exhibit 2—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA found No Reportable Instances of Noncompliance and No Material Weaknesses(No Reportable Conditions Identified)

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors

Center Telephone Company:

We have audited the financial statements of Center Telephone Company as of and for the years ended December 31, 1998 and 1997, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center Telephone Company's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under Government Auditing Standards. [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: However, we noted certain immaterial instances of noncompliance which we have reported to the management of Center Telephone Company in a separate letter dated March 2, 1999.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center Telephone Company's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses. [If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: However, we noted other matters involving the internal control over financial reporting which we have reported to the management of Center Telephone Company in a separate letter dated March 2, 1999.]

This report is intended for the information of the audit committee, management, the Rural Utilities Service, and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

March 2, 1999

Exhibit 3—Sample Report on Compliance and on Internal Control over Financial Reporting, the CPA found Reportable Instances of Noncompliance and Reportable Conditions were Identified

Certified Public Accountants, 1600 Main Street, City, State 24105

The Board of Directors

Center Telephone Company

We have audited the financial statements of Center Telephone Company as of and for the years ended December 31, 1998 and 1997, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether Center County Telephone Company's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under *Government Auditing Standards*. [A description of the findings should be included in the report.] [If the CPA has issued a separate letter to the management detailing immaterial instances of noncompliance, modify this paragraph to include a statement such as the following: We also noted certain immaterial instances of noncompliance which we have reported to the management of Center Telephone Company in a separate letter dated March 2, 1999.]

Internal Control Over Financial Reporting

In planning and performing our audit, we considered Center Telephone Company's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the

internal control over financial reporting that, in our judgment, could adversely affect Center Telephone Company's ability to record, process, summarize and report financial data consistent with the assertions of management in the financial statements. [A description of the findings pertaining to reportable conditions should be included in the report.]

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe none of the reportable conditions described above is a material weakness. [If conditions believed to be material weaknesses are disclosed, the last sentence should be deleted and instead the report should identify which of the reportable conditions described above are considered to be material weaknesses.][If the CPA has issued a separate letter to management to communicate other matters involving the design and operation of the internal control over financial reporting, modify this paragraph to include a statement such as the following: We also noted other matters involving the internal control over financial reporting which we have reported to the management of Center Telephone Company in a separate letter dated March 2, 1999.]

This report is intended for the information of the audit committee, management, the Rural Utilities Service, and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

March 2, 1999

EXHIBIT 4—SAMPLE FINANCIAL STATEMENTS

CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 ASSETS (NOTES 1 AND 2)

	19X9	19X8
ELECTRIC PLANT: (Note 3)		
In Service—at cost	$9,524,646	$9,365,264
Construction Work in Progress	407,943	317,166
	9,932,589	9,682,430
Less: Accumulated Provisions for Depreciation	3,117,629	2,917,295
	6,814,960	6,765,135
OTHER ASSETS AND INVESTMENTS:		
Nonutility Property	20,227	20,227
Investments in Associated Organizations (Note 4)	391,258	292,798
	411,485	313,025
CURRENT ASSETS:		
Cash—General Funds	37,350	51,544
Cash—Construction Funds	10,034	20,193
Accounts Receivable (Less accumulated provision for uncollectible accounts of $2,207 in 19X9 and $1,933 in 19X8)	36,527	35,255
Materials and Supplies (at average cost)	83,652	80,882
Other Current and Accrued Assets	8,613	8,692
	176,176	196,566
DEFERRED CHARGES (Note 5):	5,666	1,762
	$7,408,287	$7,276,488

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 EQUITIES AND LIABILITIES (NOTE 1)

	19X9	19X8
EQUITIES:		
Memberships	$60,145	$59,440
Patronage Capital (Note 6)	1,761,798	1,526,833
Other Equities (Note 7)	53,647	35,900
	1,875,590	1,622,173
LONG-TERM DEBT:		
RUS Mortgage Notes less current maturities (Note 8)	5,249,115	5,396,385
CURRENT LIABILITIES:		
Current Maturities of Long-Term Debt	145,000	140,000
Accounts Payable—Purchased Power	48,916	52,117
Accounts Payable—Other	21,859	6,556
Consumer Deposits	32,660	33,085

CENTER COUNTY ELECTRIC COOPERATIVE BALANCE SHEETS—DECEMBER 31, 19X9 AND 19X8 EQUITIES AND LIABILITIES (NOTE 1)—Continued

	19X9	19X8
Accrued Taxes	10,958	9,146
Other Current and Accrued Liabilities	12,285	6,461
	271,678	247,365
DEFERRED CREDITS (Note 10)	11,904	10,565
	$7,408,287	$7,276,488

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF REVENUE AND PATRONAGE CAPITAL FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19X9	19X8
OPERATING REVENUES	$1,719,467	$1,605,690
OPERATING EXPENSES:		
Cost of Power	587,729	625,411
Distribution—Operation	111,058	121,682
Distribution—Maintenance	158,622	182,740
Consumer Accounts	76,675	72,927
Sales	38,378	40,755
Administrative and General	94,682	87,058
Depreciation and Amortization	288,389	279,776
Taxes	34,920	34,438
	1,390,453	1,444,787
OPERATING MARGINS BEFORE FIXED CHARGES	329,014	160,903
FIXED CHARGES:		
Interest on Long-Term Debt	113,713	115,082
OPERATING MARGINS AFTER FIXED CHARGES	215,301	45,821
G&T AND OTHER CAPITAL CREDITS	14,460	17,500
NET OPERATING MARGINS	229,761	63,321
NONOPERATING MARGINS:		
Interest Income	24,289	18,802
Other Nonoperating Income	1,200	1,200
	25,489	20,002
NET MARGINS	255,250	83,323
PATRONAGE CAPITAL—BEGINNING OF YEAR	1,526,833	1,469,125
	1,782,083	1,552,448
RETIREMENT OF CAPITAL CREDITS	20,285	25,615
PATRONAGE CAPITAL—END OF YEAR	$1,761,798	$1,526,833

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8

	19×9	19×8
CASH FLOWS FROM OPERATING ACTIVITIES:		
Cash Received from Consumers	$1,721,496	$1,609,933
Cash Paid to Suppliers and Employees	(1,049,139)	(1,126,367)
Interest Received	24,289	18,802
Interest Paid	(114,131)	(115,607)
Taxes Paid	(33,108)	(32,132)
Net Cash Provided by Operating Activities	549,407	354,629
CASH FLOWS FROM INVESTING ACTIVITIES:		
Construction and Acquisition of Plant	(322,234)	(216,427)

CENTER COUNTY ELECTRIC COOPERATIVE STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 19X9 AND 19X8—Continued

	19×9	19×8
Plant Removal Costs	(25,994)	(19,268)
Materials Salvaged from Retirements	10,014	7,327
(Increase)/Decrease In:		
Materials Inventory	(2,770)	1,916
Deferred Charges-Preliminary Survey & Investigation	(3,486)	(2,617)
Investments-CFC Capital Term Certificates	(82,472)	(69,412)
Inventory Adjustment-Deferred Credit Decrease	(2,290)	(1,057)
Net Cash Used in Investing Activities	(429,232)	(299,538)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Retirements of Patronage Capital Credits	(20,285)	(25,615)
Retired Capital Credits—Gain	1,200	1,200
Donated Capital	16,547	6,178
RUS Loan Advances	174,976	197,450
Payments on RUS Debt	(317,246)	(279,575)
Increase/(Decrease) In:		
Consumer Deposits	(425)	575
Memberships Issued	705	450
Net Cash Used in Financing Activities	(144,528)	(99,337)
Net Increase/(Decrease) in Cash	(24,353)	(44,246)
Cash—Beginning of Year	71,737	115,983
Cash—End of Year	47,384	71,737
The accompanying notes are an integral part of these statements.		
RECONCILIATION OF NET MARGINS TO NET CASH PROVIDED BY OPERATING ACTIVITIES:		
Net Margins	$255,250	$83,323
Adjustments to Reconcile Net Margins to Net Cash Provided by Operating Activities:		
Depreciation and Amortization	288,389	279,776
G&T and Other Capital Credits (Non-Cash)	(14,460)	(17,500)
Patronage Capital Credits-NRUCFC (Non-Cash)	(1,528)	(1,200)
Provision for Uncollectible Accounts Receivable	274	(526)
(Increase)/Decrease In:		
Customer and Other Accounts Receivable	(1,546)	2,523
Current and Accrued Assets-Other	79	112
Increase/(Decrease) In:		
Accounts Payable	12,102	5,117
Accrued Taxes	1,812	2,306
Deferred Energy Prepayments	3,629	2,246
Current and Accrued Liabilities-Other	5,824	(1,023)
Deferred Interest Expense	(418)	(525)
Total Adjustments	294,157	271,306
Net Cash Provided by Operating Activities	549,407	354,629

The accompanying notes are an integral part of these statements.

CENTER COUNTY ELECTRIC COOPERATIVE NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 19X9 AND DECEMBER 31, 19X8

	19X9	19X8
1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:		
Include a brief description of the reporting entity's significant accounting policies in accordance with Accounting Principles Board Opinion No. 22, Disclosure of Accounting Policies.		
Disclosure of accounting policies should identify and describe the accounting principles followed by the borrower and the methods of applying those principles that materially affect the determination of financial position, cash flow, and results of operations.		
Disclosures of accounting policies do not have to be duplicated in this section if presented elsewhere as an integral part of the financial statements.		
2. ASSETS PLEDGED:		
Substantially all assets are pledged as security for long-term debt to RUS.		
3. ELECTRIC PLANT AND DEPRECIATION RATES AND PROCEDURES:		
Listed below are the major classes of the electric plant as of December 31, 19X9, and 19X8:		
Intangible Plant	$2,194	$2,194
Distribution Plant	9,011,036	8,873,957
General Plant	511,416	489,113
Electric Plant in Service	9,524,646	9,365,264

CENTER COUNTY ELECTRIC COOPERATIVE NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 19X9 AND DECEMBER 31, 19X8—Continued

	19X9	19X8
Construction Work in Progress	407,943	317,166
	9,932,589	9,682,430

Provision has been made for depreciation of distribution plant at a straight-line composite rate of 2.86 percent per annum.

General Plant depreciation rates have been applied on a straight-line basis as follows:

Structures and Improvement	2.5%	
Office Furniture	6.0%	
Transportation Equipment	14.0%	
Power Operated Equipment	12.0%	
Other General Plant	4.0%	
Communications Equipment	6.0%	

4. INVESTMENTS IN ASSOCIATED ORGANIZATIONS:

Investments in associated organizations consisted of the following at December 31, 19X9 and 19X8:

Capital Term Certificates of the National Rural Utilities Cooperative Finance Corporation (NRUCFC)	$385,193	$288,261
NRUCFC Patronage Capital Credits	5,065	3,537
Other	1,000	1,000
	391,258	292,798

5. DEFERRED CHARGES:

Following is a summary of amounts recorded as deferred charges as of December 31, 19X9 and 19X8:

Preliminary Surveys 19X0—X1 Work Plan	5,666	1,762

6. PATRONAGE CAPITAL:

At December 31, 19X9 and 19X8, patronage capital consisted of:

Assignable	$255,250	$83,323
Assigned to Date	1,952,448	1,869,125
	2,207,698	1,952,448
Less: Retirements to Date	445,900	425,615
	1,761,798	1,526,833

Under the provisions of the Mortgage Agreement, until the equities and margins equal or exceed forty percent of the total assets of the cooperative, the return to patrons of contributed capital is generally limited to twenty-five percent of the patronage capital or margins received by the cooperative in the prior calendar year. The equities and margins of the cooperative represent 25.3 percent of the total assets at balance sheet date. Capital credit retirements in the amount of $20,285 were paid in 19X9.

7. OTHER EQUITIES:

At December 31, 19X9 and 19X8, other equities consisted of:

Retired Capital Credits—Gain	$36,190	$34,990
Donated Capital	17,457	910
	53,647	35,900

8. MORTGAGE NOTES—RUS:

Long-term debt is represented by mortgage notes payable to the United States of America. Following is a summary of outstanding long-term debt as of December 31, 19X9 and 19X8:

2% Notes due March 31, 19X5	$1,057,155	$1,098,700
2% Notes due December 31, 19X6	2,485,927	2,502,370
5% Notes due December 31, 19X6	1,851,033	1,935,315
Less: Current Maturities	(145,000)	(140,000)
	5,249,115	5,396,385

Unadvanced loan funds of $285,600 are available to the cooperative on loan commitments from RUS.

Principal and interest installments on the above notes are due quarterly in equal amounts of $99,600. As of December 31, 19X9, annual maturities of long-term debt outstanding for the next five years are as follows:

19X0	$145,000
19X1	150,000
19X2	151,500
19X3	154,000
19X4	155,000

Advance payments of $252,300 may be applied to the installments.

9. PENSION PLAN:

Substantially all of the employees of the Cooperative are covered by the ABC Retirement and Security Program, a multiemployer plan. Pension expense for the years ended 19X9 and 19X8 was $22,400.00 and $20,400.00, respectively.

10. DEFERRED CREDITS:

Following is a summary of the amounts recorded as deferred credits as of December 31, 19X9 and 19X8:

Customer Energy Payments	$6,694	$3,065
Inventory Adjustment	5,210	7,500

CENTER COUNTY ELECTRIC COOPERATIVE NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 19X9 AND DECEMBER 31, 19X8—Continued

	19X9	19X8
	11,904	10,565

11. LITIGATION:

The cooperative is a defendant in an action in which the plaintiff claims damages totaling $200,000 for personal injuries sustained. The action has been dismissed by the District Court, but is on appeal before the State Supreme Court. Management is of the opinion that no liability will be incurred by the cooperative as a result of this action.

12. COMMITMENTS:

Under its wholesale power agreement, the cooperative is committed to purchase its electric power and energy requirements from Central Power Cooperative, Inc., until December 31, 19XX. The rates paid for such purchases are subject to review annually.

14. Appendix C To Part 1773 is revised to read as follows:

Appendix C to Part 1773—Illustrative Independent Auditor's Management Letter for Electric Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Electric Borrowers

March 2, 1999

Board of Directors

[Name of Borrower]

[City, State]

We have audited the financial statements of [Name of Borrower] for the year ended December 31, 1998, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of [Name of Borrower] for the year ended December 31, 1998, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

A description of the responsibility of management for establishing and maintaining the internal control over financial reporting and the objectives of and inherent limitations in such control is set forth in our independent auditors' report on compliance and on internal control over financial reporting dated March 2, 1999, and should be read in conjunction with this report.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reportingstructure.]

7 CFR 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in 7 CFR 1773.33 (e)(1), related party transactions, depreciation rates, and a schedule of deferred debits and credits, upon which we express an opinion. In addition, our audit of the financial statements also included the procedures specified in 7 CFR 1773.38—.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports (other than our independent auditors' report and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 1999) or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by 7 CFR 1773.33 are presented below.

Comments on Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding [Name of Borrower]'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];

—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and

—The materials control [list other comments].

Comments on Compliance With Specific RUS Loan and Security Instrument Provisions

Management's responsibility for compliance with laws, regulations, contracts, and grants is set forth in our independent auditors' report on compliance and on internal control over financial reporting dated March 2, 1999, and should be read in conjunction with this report. At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedure performed with respect to the requirement to maintain all funds from loans made or guaranteed by RUS in institutions whose accounts are insured by an Agency of the Federal government:

1. Obtained information from financial institutions with which [Name of Borrower] maintains cash proceeds from loans that indicated that the institutions are insured by an Agency of the Federal government.

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others for the year ended December 31, 19X5 of [Name of Borrower]:

1. Obtained and read a borrower-prepared schedule of new written contracts entered into during the year for the operation or maintenance of its property, or for the use of its property by others as defined in § 1773.334 (e)(1)(ii).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 7 or Form 12 to the RUS:

1. Agreed amounts reported in Form 7 or Form 12 to [Name of Borrower]'s records.

The results of our tests indicate that, with respect to the items tested, [Name of Borrower] complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower maintains all funds from loans made or guaranteed by RUS in institutions whose accounts are insured by an agency of the Federal government [list all exceptions];

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract for the operation or maintenance of property, or for the use of mortgaged property by others as defined in § 1773.334 (e)(1)(ii) [list all exceptions]; and

—The borrower has submitted its Form 7 or Form 12 to the RUS and the Form 7 or Form 12, Financial and Statistical Report, as of December 31, 1998, represented by the borrower as having been submitted to RUS is in agreement with the [Name of Borrower]'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of [Name of Borrower], nothing came to our attention that caused us to believe that [Name of Borrower] failed to comply with respect to:

—The reconciliation of subsidiary plant records to the controlling general ledger plant accounts addressed at 7 CFR 1773.334 (c)(1) [list all exceptions];

—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at 7 CFR 1773.334 (c)(2) [list all exceptions];

—The retirement of plant addressed at 7 CFR 1773.33 (c)(3) and (4) [list all exceptions];

—Sales of plant material, or scrap addressed at 7 CFR 1773.33 (c)(5) [list all exceptions];

—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 1998, in the financial statements referenced in the first paragraph of this report addressed at 7 CFR 1773.33 (f) [list all exceptions];

—The depreciation rates addressed at 7 CFR 1773.334 (g) [list all exceptions]; and

—The detailed schedule of deferred debits and deferred credits.

Our audit was made for the purpose of forming an opinion on the basic financial statements taken as a whole. The detailed schedule of deferred debits and deferred credits required by 7 CFR 1773.33 (h) and provided below is presented for purposes of additional analysis and is not a required part of the basic financial statements. This information has been subjected to the auditing procedures applied in our audit of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

[The detailed schedule of deferred debits and deferred credits would be included here. The total amount of deferred debits and deferred credits as reported in the schedule must agree with the totals reported on the Balance Sheet under the specific captions of ''Deferred Debits'' and ''Deferred Credits''. Those items that have been approved, in writing, by RUS should be clearly indicated.]

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

15. Appendix D To Part 1773 is added to read as follows:

Appendix D to Part 1773—Illustrative Independent Auditor's Management Letter for Telecommunications Borrowers

RUS requires that CPAs auditing RUS borrowers provide a management letter in accordance with § 1773.33. This letter must be signed by the CPA, bear the same date as the auditor's report, and be addressed to the borrower's board of directors.

Illustrative Independent Auditors' Management Letter for Telecommunications Borrowers

March 2, 1999

Board of Directors

[Name of Borrower]
[City, State]

We have audited the financial statements of [Name of Borrower] for the year ended December 31, 1998, and have issued our report thereon dated March 2, 1999. We conducted our audit in accordance with generally accepted auditing standards, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and 7 CFR part 1773, Policy on Audits of Rural Utilities Service (RUS) Borrowers. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In planning and performing our audit of the financial statements of [Name of Borrower] for the year ended December 31, 1998, we considered its internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing an opinion on the financial statements and not to provide assurance on the internal control over financial reporting.

A description of the responsibility of management for establishing and maintaining the internal control over financial reporting and the objectives of and inherent limitations in such control is set forth in our independent auditors' report on compliance and on internal control over financial reporting dated March 2, 1999, and should be read in conjunction with this report.

Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting that we consider to be material weaknesses. [If a material weakness was noted, refer the reader to the independent auditors' report on compliance and on internal control over financial reporting.]

7 CFR 1773.33 requires comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters. We have grouped our comments accordingly. In addition to obtaining reasonable assurance about whether the financial statements are free from material misstatements, at your request, we performed tests of specific aspects of the internal control over financial reporting, of compliance with specific RUS loan and security instrument provisions, and of additional matters. The specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and additional matters tested include, among other things, the accounting procedures and records, materials control, compliance with specific RUS loan and security instrument provisions set forth in 7 CFR 1773.33 (e)(2), and related party transactions. In addition, our audit of the financial statements also included the procedures specified in 7 CFR 1773.38–.45. Our objective was not to provide an opinion on these specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, or additional matters, and accordingly, we express no opinion thereon.

No reports (other than our independent auditors' report, and our independent auditors' report on compliance and on internal control over financial reporting, all dated March 2, 1999) or summary of recommendations related to our audit have been furnished to management.

Our comments on specific aspects of the internal control over financial reporting, compliance with specific RUS loan and security instrument provisions, and other additional matters as required by 7 CFR 1773.33 are presented below.

Comments On Certain Specific Aspects of the Internal Control Over Financial Reporting

We noted no matters regarding [Name of Borrower]'s internal control over financial reporting and its operation that we consider to be a material weakness as previously defined with respect to:

—The accounting procedures and records [list other comments];

—The process for accumulating and recording labor, material, and overhead costs, and the distribution of these costs to construction, retirement, and maintenance or other expense accounts [list other comments]; and

—The materials control [list other comments].

Comments On Compliance With Specific RUS Loan and Security Instrument Provisions

Management's responsibility for compliance with laws, regulations, contracts, and grants is set forth in our independent auditors' report on compliance and on internal control over financial reporting dated March 2, 1999, and should be read in conjunction with this report. At your request, we have performed the procedures enumerated below with respect to compliance with certain provisions of laws, regulations, contracts, and grants. The procedures we performed are summarized as follows:

—Procedure performed with respect to the requirement to maintain all funds in institutions whose accounts are insured by an Agency of the Federal government:

1. Obtained information from financial institutions with which [Name of Borrower] maintains funds that indicated that the institutions are insured by an agency of the Federal government.

—Procedures performed with respect to the requirement for a borrower to obtain written approval of the mortgagee to enter into any contract for the operation or maintenance of property, for the use of mortgaged property by others, or for services pertaining to toll traffic, operator assistance, or switching for the year ended December 31, 1998 of [Name of Borrower]:

1. Obtained and read a borrower-prepared schedule of new written contracts entered into during the year for the operation or maintenance of its property, for the use of its property by others, or for services pertaining to toll traffic, operator assistance, or switching as defined in § 1773.33 (e)(2)(i).

2. Reviewed Board of Director minutes to ascertain whether board-approved written contracts are included in the borrower-prepared schedule.

3. Noted the existence of written RUS [and other mortgagee] approval of each contract listed by the borrower.

—Procedure performed with respect to the requirement to submit RUS Form 479 to the RUS:

1. Agreed amounts reported in Form 479 to [Name of Borrower]'s records.

—Procedure performed with respect to funded reserve and net plant to secured debt ratio requirements:

1. Reviewed loan security instrument to ascertain which condition was elected by the borrower.

2. If the funded reserve option was selected, review financial institution records to verify the existence of a separate bank account for the reserve, and determine that it was funded within one year of approval of release of funds and that it remained funded over the composite economic life of the facilities financed.

3. If the net plant to secured debt ratio option was selected, calculate the ratio and confirm that the 1.2 ratio was achieved one year following the first advance of loan funds.

The results of our tests indicate that, with respect to the items tested, [Name of Borrower] complied, except as noted below, in all material respects, with the specific RUS loan and security instrument provisions referred to below. The specific provisions tested, as well as any exceptions noted, include the requirements that:

—The borrower maintains all funds in institutions whose accounts are insured by an agency of the Federal government [list all exceptions];

—The borrower has obtained written approval of the RUS [and other mortgagees] to enter into any contract for the operation or maintenance of property, for the use of mortgaged property by others, or for services pertaining to toll traffic, operator assistance, or switching as defined in § 1773.33(e)(2)(i) [list all exceptions]; and

—The borrower has submitted its Form 479 to the RUS and the Form 479, Financial and Statistical Report, as of December 31, 1999, represented by the borrower as having been submitted to RUS is in agreement with the [Name of Borrower]'s audited records in all material respects [list all exceptions] [or if the audit year end is other than December 31], appears reasonable based upon the audit procedures performed [list all exceptions].

Comments on Other Additional Matters

In connection with our audit of the financial statements of [Name of Borrower], nothing came to our attention that caused us to believe that [Name of Borrower] failed to comply with respect to:

—The reconciliation of subsidiary plant records to the controlling general ledger plant accounts addressed at 7 CFR 1773.33(c)(1) [list all exceptions];

—The clearing of the construction accounts and the accrual of depreciation on completed construction addressed at 7 CFR 1773.33(c)(2) [list all exceptions];

—The retirement of plant addressed at 7 CFR 1773.33(c)(3) and (4) [list all exceptions];

—Sales of plant material, or scrap addressed at 7 CFR 1773.33(c)(5) [list all exceptions]; and

—The disclosure of material related party transactions, in accordance with Statement of Financial Accounting Standards No. 57, Related Party Transactions, for the year ended December 31, 1999, in the financial statements referenced in the first paragraph of this report addressed at 7 CFR 1773.33(f) [list all exceptions].

This report is intended solely for the information and use of the board of directors, management, and the RUS and supplemental lenders. However, this report is a matter of public record and its distribution is not limited.

Certified Public Accountants

Dated: July 8, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98–18758 Filed 7–16–98; 8:45 am]

BILLING CODE 3410–15–P

Reader Aids

Federal Register

Vol. 63, No. 137

Friday, July 17, 1998

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service that delivers information about recently enacted Public Laws. To subscribe, send E-mail to

listproc@lucky.fed.gov

with the text message:

subscribe publaws-l <firstname> <lastname>

Use listproc@lucky.fed.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries at that address.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATES, JULY

35787–36150 1
36151–36338 2
36339–36540 6
36541–36830 7
36831–37058 8
37059–37242 9
37243–37474 10
37475–37754 13
37755–38072 14
38073–38276 15
38277–38460 16
38461–38736 17

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7107 36531
7108 38073
Executive Orders:
9981 (See Proclamation 7108) 38073
11958 (Amended by EO 13091) 36153
12163 (Amended by EO 13091) 36153
13090 36151
13091 36153
Administrative Orders:
Presidential Orders:
No. 98–31 36149
Memorandums:
July 8, 1998 38277

5 CFR

Proposed Rules:
2420 35882
2421 35882
2422 35882
2423 35882
2470 35882
2472 35882

7 CFR

2 35787
272 37755
275 37755
301 .....36155, 38279
457 .....36156, 36157
911 37475
915 37475
931 38280
948 38282
1361 37755
1371 37755
1773 38719
1980 36157
Proposed Rules:
246 38343
905 38347
924 38349
958 36194
1753 38503
1755 36377

8 CFR

3 36992

9 CFR

3 37480
78 37243
93 37483

10 CFR

34 37059
Proposed Rules:
20 38511

11 CFR

Proposed Rules:
102 37721
103 37721
106 37721

12 CFR

208 37630
209 37659
216 37665
250 37630
360 37760
560 38461
611 36541
614 36541
620 36541
630 36541
904 37483
Proposed Rules:
330 38521

14 CFR

25 38075
39 .....35787, 35790, 35792, 35793, 35794, 35796, 36158, 36549, 36551, 36553, 36831, 36832, 36834, 36835, 36836, 37061, 37063, 37761, 37763, 37765, 38284, 38286, 38287, 38289, 38290, 38293, 38295, 38463, 38464
71 .....36161, 36554, 36838, 36839, 36840, 36841, 36843, 36844, 36845, 37065, 37489, 37943, 38077, 38079, 38080, 38466
95 37243
97 .....36162, 36165, 36170, 38467, 38468, 38470
Proposed Rules:
27 37745
29 37745
39 .....35884, 36377, 36619, 36621, 36622, 36624, 36626, 36628, 36630, 36864, 37072, 37074, 37078, 37080, 37083, 37508, 37793, 37795, 38116, 38118, 38120, 38122, 38123, 38126, 38351, 38353, 38524
65 .....37171, 37210
66 .....37171, 37210
71 .....37510, 38524
91 38235
93 38231
147 37171
234 38128
241 38128
250 38128
298 38128
374a 38128

15 CFR

280....37170
740....37767
746....37767
774....37767
902....37246, 38298
922....36339

16 CFR

0....36339
1....36339
3....36339
4....38472
303....36171
304....36555
432....37233

Proposed Rules:

432....37237

17 CFR

240....37667, 37688

Proposed Rules:

1....38525
5....38537
210....35886
17....38525
18....38525
150....38525
229....35886
230....36136
240....35886, 36138, 37746
249....35886
275....36632
279....36632

19 CFR

162....35798, 36992
178....35798, 36992

Proposed Rules:

4....036379

20 CFR

404....36560
416....36560

21 CFR

101....37029
172....36344, 36362
175....37246
177....36175
178....35798, 36176, 36177
510....36178
520....36178, 38473, 38474
522....38303
529....38304
556....38303
558....36179, 38474

Proposed Rules:

120....37057
812....38131

22 CFR

40....36365
41....36365
140....36571

25 CFR

Proposed Rules:

61....36866

26 CFR

1....36180
48....35799
145....35799
602....35799
648....36180

Proposed Rules:

1....37296, 38139
48....35893
301....37296

27 CFR

178....37739

28 CFR

0....36846
16....36295

29 CFR

4011....38305
4022....38305
4041A....38305
4044....38082, 38305
4050....38305
4281....38305

30 CFR

250....37066
901....35805
948....37774

Proposed Rules:

72....37796
75....37796, 38065
206....36868, 38355
944....36868

31 CFR

103....37777
317....38035
321....38035
330....38035
357....35807
359....38035
360....38035
501....35808
515....35808
538....35809
560....35808

Proposed Rules:

103....37085

32 CFR

204....36992
588....37068

Proposed Rules:

199....36651
655....37296

33 CFR

Ch. I....36384
100....36181, 36182, 36183, 36849, 36850, 37249, 37490, 37491, 38308,
117....35820, 37250, 37251
155....35822
165....36851, 37492, 38307, 38476
401....36992
402....36992

Proposed Rules:

100....36197
110....37297

34 CFR

74....36144
80....36144

Proposed Rules:

304....37465
668....37713

36 CFR

327....35826
1220....35828
1222....35828
1228....35828
1230....35828
1234....35828
1238....35828

37 CFR

1....36184

38 CFR

4....37778
17....37779
21....35830

Proposed Rules:

17....37299

39 CFR

20....37251, 38478
111....37254, 37945, 38083, 38309

40 CFR

52....35837, 35839, 35842, 36578, 36578, 36852, 36854, 37255, 37493, 38087
62....36858
63....38478
81....37258
180....35844, 36366, 37280, 37286, 37289, 38481,38483, 38495
261....37780
271....36587
279....37780
282....38498
300....36861, 37069, 37782

Proposed Rules:

52....35895, 35896, 36652, 36870, 37307, 38139
62....36871
63....38544
131....36742
136....36810
141....37797
142....37797
180....37307
261....37797, 38139
264....37309
265....37309
271....36652
281....37311
300....37085

41 CFR

101–20....35846

42 CFR

121....35847
409....37498
410....37498
411....37498
413....37498
422....36488
424....37498
483....37498
489....37498
1008....38311

44 CFR

64....37783
65....37784, 38326
67....37786

Proposed Rules:

67....37808

45 CFR

303....36185

46 CFR

401....37943
402....37943

Proposed Rules:

28....38141
502....35896
503....35896
510....35896
514....35896, 37088
540....35896
572....35896
585....35896
587....35896
588....35896

47 CFR

0....37499
1....35847, 36591
2....36591
5....36591
15....36591
18....36591
21....36591
22....36591
24....36591
26....36591
63....37499
64....36191, 37069
73....36191, 36192, 36591, 38357
74....36591, 38357
76....37790, 38089
78....36591
80....36591
87....36591
90....36591
95....36591
97....36591
101....36591

Proposed Rules:

1....38142
2....35901
73....36199, 36387, 37090
76....37812, 37815

48 CFR

Ch. 1....36128
1....36120
12....36120
15....36120
19....36120
52....36120
53....36120
235....36862
532....38330
552....38330

Proposed Rules:

13....36522
16....36522,
32....36522
52....36522
1609....38360
1632....38360
1652....38360

49 CFR

7....38331
171....37453
172....37453
173....37453
175....37453
177....37453

178.....37453
180.....37453
191.....37500
192.....37500
193.....37500
194.....37500
195.....36373, 37500
199.....36862
223.....36376
541.....38096

Proposed Rules:

171.....38455
177.....38455
178.....38455
180.....38455
571.....37820

50 CFR

285 .....36611, 37506, 38340
600.....36612
622 .....37070, 37246, 38298
660 .....36612, 36614, 38101
679 .....36193, 36863, 37071, 37507, 38340, 38341, 38342, 38501

Proposed Rules:

14.....38143
17.....36993
20.....38699
660.....38144

REMINDERS

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.

RULES GOING INTO EFFECT JULY 17, 1998

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Pears (Bartlett) grown in—
- Oregon and Washington; published 7-16-98

Potatoes (Irish) grown in—
- Colorado; published 7-16-98

AGRICULTURE DEPARTMENT

Rural Utilities Service

Electric loans:
- Borrower audit policy and certified public accountant peer review requirements; published 7-17-98

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Fipronil; published 7-17-98
- Myclobutanil; published 7-17-98
- Pseudomonas fluorescens strain PRA-25; published 7-17-98

FEDERAL TRADE COMMISSION

Access to records by foreign governments; published 7-17-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- New drug applications—
  - Bacitracin methylene disalicylate soluble powder; published 7-17-98
  - Bacitracin methylene disalicylate, decoquinate, and roxarsone; published 7-17-98
  - Ivermectin liquid; published 7-17-98

POSTAL SERVICE

International Mail Manual:
- Global package link (GPL) service—
  - Germany and France; published 7-17-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Avions Mudry et Cie; published 6-8-98
- Boeing; published 7-2-98
- British Aerospace; published 6-3-98
- SOCATA-Groupe Aerospatiale; published 6-4-98
- Stemme GmbH & Co. KG; published 6-4-98

TREASURY DEPARTMENT

Thrift Supervision Office

Lending and investment:
- Adjustable-rate mortgage loans; disclosure requirements; published 7-17-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:
- Mediterranean fruit fly; comments due by 7-20-98; published 5-19-98

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:
- Women, infants, and children; special supplemental nutrition program—
  - Vendor disqualification; comments due by 7-20-98; published 4-20-98

Food stamp program:
- Electronic benefits transfer system; adjustments; comments due by 7-20-98; published 5-19-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- West Coast States and Western Pacific fisheries—
  - Bottomfish and seamount groundfish; comments due by 7-20-98; published 6-3-98
  - Pacific coast groundfish; comments due by 7-22-98; published 7-7-98

Pacific Halibut Commission, International:
- Pacific halibut fisheries—
  - Halibut charterboat fishery; control date; comments due by 7-24-98; published 6-24-98

DEFENSE DEPARTMENT

Vocational rehabilitation and education:
- Veterans education—
  - Educational assistance; advance payments and lump-sum payments; comments due by 7-20-98; published 5-20-98

EDUCATION DEPARTMENT

Postsecondary education:
- Fulbright-Hays doctoral dissertation research abroad fellowship program, etc.; comments due by 7-20-98; published 6-19-98

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Primary copper smelters; comments due by 7-20-98; published 6-2-98
- Wood furniture manufacturing operations; comments due by 7-24-98; published 6-24-98

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 7-20-98; published 6-18-98
- Georgia; comments due by 7-24-98; published 6-24-98
- Ohio; comments due by 7-20-98; published 6-18-98

Air quality planning purposes; designation of areas:
- Idaho; comments due by 7-20-98; published 6-19-98

Clean Air Act:
- Acid rain program—
  - Continuous emission monitoring; rule streamlining; comments due by 7-20-98; published 5-21-98

Hazardous waste:
- Project XL program; site-specific projects—
  - OSi Specialities, Inc. plant, Sisterville, WV; comments due by 7-24-98; published 7-10-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Bacillus thuringiensis subspecies tolworthi Cry9C protein and genetic material necessary for production in corn; comments due by 7-21-98; published 5-22-98
- Hydroxyethylidine diphosphonic acid; comments due by 7-21-98; published 5-22-98

Radiation protection programs:
- Idaho National Enviromental and Engineering Laboratory; transuranic radioactive waste proposed for disposal at Waste Isolation Pilot Plant; DOE documents av ailability; comments due by 7-24-98; published 6-24-98

Toxic substances:
- Asbestos-containing materials in schools; State waiver requests; comments due by 7-24-98; published 6-24-98

FARM CREDIT ADMINISTRATION

Administrative provisions:
- Administrative expenses; assessment and apportionment; technical amendments; comments due by 7-24-98; published 6-24-98

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Advanced telecommunications technology, regulations regarding experiments; comment request; comments due by 7-21-98; published 6-29-98
- Telecommunications relay services and speech-to-speech services for individuals with hearing and speech disabilities; comments due by 7-20-98; published 6-16-98

Radio and television broadcasting:
- Telecommunications Act of 1996; implementation—
  - Broadcast ownership and other rules; biennial review; comments due by 7-21-98; published 5-14-98

FEDERAL HOUSING FINANCE BOARD

Affordable housing program operation:
- Program requirements clarification; comments due by 7-20-98; published 5-20-98

FEDERAL RESERVE SYSTEM

Miscellaneous interpretations:
- Asset purchases, loans, or other transactions;

exemption eligibility; comments due by 7-21-98; published 6-16-98

Transactions between member banks and nonaffiliated third parties; exemptions; comments due by 7-21-98; published 6-16-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs, biological products, and medical devices:

Unapproved/new uses; information dissemination; comments due by 7-23-98; published 6-8-98

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

San Xavier talussnail; comments due by 7-21-98; published 5-22-98

Winkler cactus; comments due by 7-22-98; published 6-22-98

Migratory bird hunting:

Migratory bird harvest information program; participating States; comments due by 7-20-98; published 5-19-98

INTERIOR DEPARTMENT

Minerals Management Service

Royalty management:

Oil valuation; Federal leases and Federal royalty oil sale

Comment period reopening; comments due by 7-24-98; published 7-8-98

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Nicaraguan and Cuban nationals; status adjustment; comments due by 7-20-98; published 5-21-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:

Contractor performance; comments due by 7-20-98; published 5-21-98

PERSONNEL MANAGEMENT OFFICE

Acquisition regulations:

Health benefits, Federal employees—

Participating carriers placing incentives in contracts with health care providers or health care workers; gag clauses prohibition; comments due by 7-20-98; published 5-21-98

Prevailing rate systems; comments due by 7-23-98; published 6-23-98

SECURITIES AND EXCHANGE COMMISSION

Practice and procedure:

Improper professional conduct standards; comments due by 7-20-98; published 6-18-98

TRANSPORTATION DEPARTMENT

Coast Guard

Vocational rehabilitation and education:

Veterans education—

Educational assistance; advance payments and lump-sum payments; comments due by 7-20-98; published 5-20-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

AlliedSignal Inc.; comments due by 7-20-98; published 5-19-98

British Aerospace; comments due by 7-24-98; published 6-17-98

Empresa Brasileira de Aeronautica, S.A.; comments due by 7-24-98; published 6-24-98

Eurocopter France; comments due by 7-23-98; published 6-23-98

Honeywell; comments due by 7-20-98; published 6-3-98

Mitsubishi; comments due by 7-22-98; published 5-21-98

New Piper Aircraft, Inc.; comments due by 7-23-98; published 5-22-98

Pilatus Aircraft Ltd.; comments due by 7-24-98; published 6-25-98

Schempp-Hirth K.G; comments due by 7-21-98; published 6-17-98

Schempp-Hirth K.G.; comments due by 7-21-98; published 6-18-98

SOCATA-Groupe AEROSPATIALE; comments due by 7-20-98; published 6-26-98

Airworthiness standards:

Special conditions—

Boeing model 777 series airplanes; comments due by 7-20-98; published 6-4-98

Class B airspace; comments due by 7-20-98; published 5-19-98

Class D and Class E airspace; comments due by 7-20-98; published 6-3-98

Class E airspace; comments due by 7-20-98; published 6-3-98

Jet routes; comments due by 7-20-98; published 6-4-98

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Consumer information:

Uniform tire quality grading standards; comments due by 7-20-98; published 5-21-98

Importers registration and importation of nonconforming motor vehicles; fee schedule; comments due by 7-20-98; published 6-5-98

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Pipeline safety:

Hazardous liquid transportation—

Breakout tanks; industry standards adoption; comments due by 7-20-98; published 5-21-98

TREASURY DEPARTMENT

Customs Service

Customs with Canada and Mexico:

Foreign-based commercial motor vehicles entry into international traffic; comments due by 7-20-98; published 5-19-98

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

S corporation subsidiaries; comments due by 7-21-98; published 4-22-98

Tax exempt organizations; travel and tour activities; comments due by 7-22-98; published 4-23-98

VETERANS AFFAIRS DEPARTMENT

Board of Veterans Appeals:

Appeals regulations and rules of practice—

Grounds of clear and unmistakable error decisions; comments due by 7-20-98; published 5-19-98

Vocational rehabilitation and education:

Veterans education—

Educational assistance; advance payments and lump-sum payments; comments due by 7-20-98; published 5-20-98

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 651/P.L. 105–189

To extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes. (July 14, 1998; 112 Stat. 622)

H.R. 652/P.L. 105–190

To extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes. (July 14, 1998; 112 Stat. 623)

H.R. 848/P.L. 105–191

To extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes. (July 14, 1998; 112 Stat. 624)

H.R. 1184/P.L. 105–192

To extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, and for other purposes. (July 14, 1998; 112 Stat. 625)

H.R. 1217/P.L. 105–193

To extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of

Washington, and for other purposes. (July 14, 1998; 112 Stat. 626)

S. 2282/P.L. 105–194

Agriculture Export Relief Act of 1998 (July 14, 1998; 112 Stat. 627)

Last List July 10, 1998

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, send E-mail to **listproc@lucky.fed.gov** with the text message:

subscribe PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new public laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.