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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 98–119–1]

Change in Disease Status of Liechtenstein Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by adding Liechtenstein to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in two bovine animals in that region. The effect of this action is to prohibit or restrict the importation of ruminants that have been in Liechtenstein and meat, meat products, and certain other edible products of ruminants that have been in Liechtenstein. This action is necessary to reduce the risk that bovine spongiform encephalopathy could be introduced into the United States.

DATES: Interim rule effective December 18, 1998. Consideration will be given only to comments received on or before February 22, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–119–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–119–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231, (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

BSE is a neurological disease of bovine animals and other ruminants and is not known to exist in the United States.

It appears that BSE is primarily spread through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Therefore, BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, and animal byproducts from ruminants in regions in which BSE exists, are imported into the United States and are fed to ruminants in the United States. BSE could also become established in the United States if ruminants from regions in which BSE exists are imported into the United States.

Sections 94.18, 95.4, and 96.2 of the regulations prohibit or restrict the importation of certain meat and other animal products and byproducts from ruminants that have been in regions in which BSE exists. These regions are listed in § 94.18 of the regulations. Furthermore, § 93.404(a)(3) states that the Animal and Plant Health Inspection Service may deny the importation of ruminants from regions where a communicable disease such as BSE exists.

Liechtenstein's Ministry of Agriculture has reported and confirmed that BSE was diagnosed in two bovine animals born in Liechtenstein. In order to reduce the risk of introducing BSE into the United States, we are, therefore, amending § 94.18(a)(1) by adding Liechtenstein to the list of regions where BSE is known to exist. Thus, we are prohibiting or restricting the importation into the United States of ruminants that have been in Liechtenstein, and meat, meat products, and certain other edible products of ruminants that have been in Liechtenstein.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the introduction of BSE into the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

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

This action adds Liechtenstein to the list of regions where BSE exists. We are taking this action based on reports we have received from Liechtenstein's Ministry of Agriculture, which confirmed that two cases of BSE have occurred in Liechtenstein.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule will have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.18 [Amended]

2. In § 94.18, paragraph (a)(1) is amended by adding the word ''Liechtenstein,'' immediately after ''the Republic of Ireland,''.

Done in Washington, DC this 18th day of December 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–34089 Filed 12–23–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 506, 528, 545, 557, 566, 571, 574, 584

[No. 98–121]

Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations to incorporate a number of technical and conforming amendments. OTS is updating cross-references in its regulations, consolidating several regulatory provisions, and amending regulations containing drafting or typographical errors.

EFFECTIVE DATE: December 24, 1998.

FOR FURTHER INFORMATION CONTACT: Mary H. Gottlieb, Senior Paralegal (Regulations), (202) 906–7135, or Karen A. Osterloh, Assistant Chief Counsel, (202) 906–6639, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION: OTS is amending its regulations to incorporate a number of technical and conforming amendments. Specifically, OTS is amending:

- Part 506—Information Collection Requirements under the Paperwork Reduction Act. OTS has updated the display table of OMB control numbers.
- Part 545—Operations. OTS has deleted reserved but unused sections in order to clarify the part.
- Part 557—Deposits. OTS has corrected an incorrect statutory citation in § 557.11.
- Part 566—Liquidity. OTS has revised the definition of ''net withdrawable accounts'' at § 566.1 to correct an inadvertent drafting error that occurred in the final rule published in November, 1997.[1]
- Part 571—Statements of Policy. The statement of policy on nondiscrimination in lending at § 571.24 is moved to part 528. This section is the only statement of policy remaining in current part 571 and it relates to the material found in part 528. Part 571, consisting of a number of reserved but unused sections, is removed.
- Part 574—Acquisition of Control of Savings Associations. OTS has corrected a typographical error in § 574.100.
- Part 584—Regulated Activities. OTS has corrected cross-references to Federal Reserve Board regulations on permissible bank holding company activities and other outdated cross-references.

Administrative Procedure Act; Riegle Community Development and Regulatory Improvement Act of 1994

The OTS has found good cause to dispense with both prior notice and comment on this final rule and a 30-day delay of its effective date mandated by the Administrative Procedure Act.[2] OTS believes that it is contrary to public interest to delay the effective date of the rule, as it corrects provisions that have caused confusion. Because the amendments in the rule are not substantive, making them effective immediately will not detrimentally affect savings associations.

In addition, this document is exempt from the requirement found in section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994[3] that regulations must not take effect before the first day of the quarter following publication, as it imposes no new requirements.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act,[4] it is certified that this technical corrections regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

OTS has determined that this rule is not a ''significant regulatory action'' for purposes of Executive Order 12866.

Unfunded Mandates Reform Act of 1995

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 $100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

List of Subjects

12 CFR Part 506

Reporting and recordkeeping requirements.

12 CFR Part 528

Advertising, Aged, Civil rights, Credit, Equal employment opportunity, Fair housing, Home mortgage disclosure, Individuals with disabilities, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Savings associations, Sex discrimination, Signs and symbols.

[1] 62 FR 62509 (November 24, 1997).

[2] 5 U.S.C. 553.

[3] Pub. L. 103–325, 12 U.S.C. 4802.

[4] Pub. L. 96–354, 5 U.S.C. 601.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 557

Consumer protection, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 566

Liquidity, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 571

Accounting, Conflicts of interest, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 574

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 584

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision, under the authority of 12 U.S.C. 1462a, hereby amends title 12, chapter V of the Code of Federal Regulations as set forth below.

PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 506 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. Section 506.1 is amended by revising paragraph (b) to read as follows:

§ 506.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

12 CFR part or section where identified and described	Current OMB control No.
502.70	1550–0053.
510	1550–0081.
Part 516	1550–0005, 1550–0006, 1550–0016.
516.1(c)	1550–0056.
Part 528	1550–0021.
543.2	1550–0005.
543.3	1550–0005
543.9	1550–0007.
544.2	1550–0017.
544.5	1550–0018.
544.8	1550–0011.
545.74	1550–0013.
545.92	1550–0004.
545.95	1550–0006.
545.96(c)	1550–0011.
546.2	1550–0016.
546.4	1550–0066.
Part 550	1550–0037.
552.2–1	1550–0005.
552.2–6	1550–0007.
552.4	1550–0017.
552.5	1550–0018.
552.6	1550–0025.
552.7	1550–0025.
552.11	1550–0011.
552.13	1550–0016, 1550–0025.
555.300	1550–0095.
555.310	1550–0095.
557.20	1550–0092.
559.3	1550–0077.
559.11	1550–0067.
559.12	1550–0013.
559.13	1550–0065.
560.1	1550–0078.
560.2	1550–0078.
560.32	1550–0078.
560.35	1550–0078.
560.93(f)	1550–0078.
560.101	1550–0078.
560.170(c)	1550–0078.
560.172	1550–0078.
560.210	1550–0078.
562.1	1550–0011.
562.1(b)	1550–0078.
562.4	1550–0011.
563.1	1550–0027.
563.1(b)	1550–0011.
563.22	1550–0016.
563.41(e)	1550–0078.
563.42(e)	1550–0078.
563.43	1550–0075.

12 CFR part or section where identified and described	Current OMB control No.
563.47(e)	1550–0011.
563.74	1550–0050.
563.76(c)	1550–0011.
563.80	1550–0030.
563.81	1550–0061.
563.134	1550–0059.
563.170	1550–0078.
563.177	1550–0041.
563.180	1550–0084.
563.180(d)	1550–0003.
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563.181	1550–0032.
563.183	1550–0032.
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563b.4	1550–0032.
563b.20 through 563b.32	1550–0074.
Part 563d	1550–0019.
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Part 563f	1550–0051.
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Part 564	1550–0078.
566.4	1550–0011.
Part 568	1550–0062.
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572.7	1550–0088.
572.9	1550–0088.
572.10	1550–0088.
574.3(b)	1550–0032.
574.4	1550–0032.
574.5	1550–0032.
574.6	1550–0015.
Part 575	1550–0072.
584.1(f)	1550–0011.
584.2–1	1550–0063.
584.2–2	1550–0063.
584.9	1550–0063.
590.4(h)	1550–0078.

PART 528—NONDISCRIMINATION REQUIREMENTS

3. The authority citation for part 528 continues to read as follows:

Authority: 12 U.S.C. 1464, 2810 *et seq.*, 2901 *et seq.*; 15 U.S.C. 1691; 42 U.S.C. 1981, 1982, 3601–3619.

§ 571.24 [Redesignated]

4. Section 571.24 is redesignated § 528.9.

§ 528.1 [Amended]

5. Section 528.1 is amended by removing the phrase ''and § 571.24'' in paragraph (a).

6. Section 528.1a is revised to read as follows:

§ 528.1a Supplementary guidelines.

The Office's policy statement found at 12 CFR 528.9 supplements this part and should be read together with this part. Refer also to the HUD Fair Housing regulations at 24 CFR parts 100 *et seq.*, Federal Reserve Regulation B at 12 CFR Part 202, and Federal Reserve Regulation C at 12 CFR Part 203.

7. Section 528.2 is amended by revising the note at the end of the section to read as follows:

§ 528.2 Nondiscrimination in lending and other services.

* * * * *

Note: See also, § 528.9(b) and (c).

8. Section 528.2a is amended by revising the note at the end of the section to read as follows:

§ 528.2a Nondiscriminatory appraisal and underwriting.

* * * * *

Note: See also, § 528.9(b), (c)(6), and (c)(7).

9. Section 528.3 is amended by revising the note at the end of the section to read as follows:

§ 528.3 Nondiscrimination in applications.

* * * * *

Note: See also, § 528.9(a) through(d).

PART 545—OPERATIONS

10. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

§§ 545.3–545.9, 545.21–545.30, 545.54–545.70, 545.83–545.90, 545.93–545.94, 545.97–545.100, 545.104–545.120, 545.123–545.125, 545.127–545.130, 545.132–545.135, 545.139–545.140 [Removed]

11. Reserved §§ 545.3–545.9, 545.21–545.30, 545.54–545.70, 545.83–545.90, 545.93–545.94, 545.97–545.100, 545.104–545.120, 545.123–545.125, 545.127–545.130, 545.132–545.135, 545.139–545.140 are removed.

PART 557—DEPOSITS

12. The authority citation for part 557 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

13. Section 557.11 is amended by revising the section heading and introductory text of paragraph (a) to read as follows:

§ 557.11 To what extent does federal law preempt deposit-related state laws?

(a) Under sections 4(a) and 5(a) of the HOLA, 12 U.S.C. 1463(a), 1464(b), OTS is authorized to promulgate regulations that preempt state laws affecting the operations of federal savings associations when appropriate to:

* * * * *

PART 566—LIQUIDITY

14. The authority citation for part 566 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1465, 1467a; 15 U.S.C. 1691, 1691a.

15. Section 566.1 is amended by revising the last sentence of paragraph (d) to read as follows:

§ 566.1 Definitions.

* * * * *

(d) * * * Tax and loan accounts, note accounts, accounts to the extent that security has been given upon them pursuant to any applicable regulations, U.S. Treasury General Accounts, and U.S. Treasury Time Deposit Open Accounts are not withdrawable accounts.

* * * * *

PART 571—STATEMENTS OF POLICY [REMOVED]

16. Part 571 is removed.

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

17. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1467a, 1817, 1831i.

§ 574.100 [Amended]

18. Section 574.100 is amended in the Agreement in section II.A.6.(c) by removing the word ''character'', and by adding in lieu thereof the word ''charter''.

PART 584—REGULATED ACTIVITIES

19. The authority citation for part 584 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

20. Section 584.2 is amended by revising paragraph (b)(6)(i) to read as follows:

§ 584.2 Prohibited activities.

* * * * *

(b) * * *

(6) * * * (i) That the Board of Governors of the Federal Reserve System has permitted for bank holding companies pursuant to 12 CFR 225.24 or 225.28, unless the Office, by regulation, prohibits or limits any such activity for savings and loan holding companies; or

* * * * *

21. Section 584.2–1 is amended by removing, in paragraph (b)(1)(v), the phrase ''§ 545.50(b) of this chapter,'' and by adding in lieu thereof the phrase ''§ 560.3 of this chapter,'', and by revising the last sentence in paragraph (a) to read as follows:

§ 584.2–1 Prescribed services and activities of savings and loan holding companies.

(a) * * * Notwithstanding and without regard to any other provision of this section other than this sentence, a savings and loan holding company and any subsidiary thereof that is not a savings association, other than a service corporation, may invest in the types of securities specified in § 566.1 of this chapter without regard to any limitation therein as to amount or maturity, except in the case of bankers acceptances, in which case the maturity limits of § 566.1 shall apply.

* * * * *

§ 584.2–2 [Amended]

22. Section 584.2–2 is amended by removing the phrase ''12 CFR 225.23 or 225.25'' in the first sentence of paragraph (a), and by adding in lieu thereof the phrase ''12 CFR 225.24 or 225.28''.

Dated: December 18, 1998.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 98–34026 Filed 12–23–98; 8:45 am]

BILLING CODE 6720–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA is incorporating into its regulations the agency's longstanding interpretation that federal credit unions can permit a nonmember to assume a member's long-term residential real estate loan in conjunction with the nonmember's purchase of the member's principal residence.

EFFECTIVE DATE: January 25, 1999.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

A. Background

Since 1977, federal credit unions have had the authority to offer long-term real estate loans to finance a member's principal residence. 12 U.S.C. 1757(A)(i). NCUA's implementing regulation for this authority is set forth at 12 CFR 701.21(g).

In 1985, the NCUA Board issued Interpretive Ruling and Policy Statement 85–3 (IRPS 85–3). 50 FR 51840 (December 20, 1985). IRPS 85–3 stated that, incidental to a federal credit union's authority to make long-term real estate loans to members, a federal credit union may permit assumptions, by either members or nonmembers, under the terms and conditions specified in the loan agreement and consistent with the Federal Credit Union Act and NCUA's Regulations. The NCUA Board also stated that, in the case of a nonmember assumption, there must be no new money lent to the borrower and no extension of the original maturity date specified in the loan agreement with the member.

NCUA has a policy of periodically reviewing its regulations to ''update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions.'' IRPS 87–2, Developing and Reviewing Government Regulations. As part of its regulatory review program, NCUA reviewed its IRPS to determine their current effectiveness. As a result of that review, the NCUA Board stated that it planned to incorporate IRPS 85–3 into NCUA's Regulations. 62 FR 11773 (March 13, 1997). The Board's goal is to increase regulatory effectiveness by making it easier for credit unions to locate applicable rules regarding real estate lending. Accordingly, at 63 FR 41978 (August 6, 1998), the NCUA Board proposed to add a new paragraph to § 701.21(g) that incorporated IRPS 85–3 so that this provision on nonmember assumption of loans will be in the same place with the other regulatory provisions regarding real estate lending. Although the language is slightly different, the policy set forth in the proposed amendment was, for all practical purposes, identical to the policy set forth in IRPS 85–3.

B. Comments

Five comments were received. Comments were received from one federal credit union, two state leagues, one national credit union trade association, and one bank trade association. Except for the bank trade association, the commenters strongly supported the proposal.

The preamble to the proposed rule, just as IRPS 85–3, stated that a federal credit union cannot grant an assumption of a loan to a nonmember if the underlying intent of the original loan to

the member was to grant an assumption by a nonmember immediately or soon after making the original loan. One commenter stated that ''intent'' is an elusive standard and requested that NCUA provide further guidance in the preamble to the final regulation as to how examiners will construct a showing that a loan was originally granted with the intention that it would be assumed by a nonmember. Intent to conduct such a sham transaction is difficult to define. The question of whether there was an improper intent will depend on the facts in a particular case. An example of a suspicious transaction would be one in which a member receives a real estate loan from the credit union and within a short period of time, contracts to sell the property to a nonmember who wants to assume the loan. Although there may be a legitimate reason for this action, NCUA will review the transaction to ensure that it was not done to circumvent the restrictions on providing services to nonmembers.

One commenter requested that NCUA extend the assumption of a loan by a nonmember to automobile loans when the individual who is assuming the loan is either the co-signer or co-owner of the automobile. The NCUA Board does not believe this authority should be extended in this situation since the practice and process of assuming real estate loans is fundamentally different in complexity, maturity, and value than a situation involving automobile loans. In addition, the NCUA Board does not see a great need for extending this assumption authority to automobile loans.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under $1 million in assets). The NCUA Board has determined and certifies that the final amendment will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the final amendment does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The final amendment only applies to federal credit unions. NCUA has determined that the final amendment does not constitute a significant regulatory action for the purposes of the Executive Order.

Congressional Review

The Office of Management and Budget has determined that this is not a major rule.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Insurance, Mortgages, Reporting and recordkeeping requirements, Surety bonds.

By the National Credit Union Administration Board on December 17, 1998.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, 12 CFR Part 701 is amended as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.,* 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Section 701.21 is amended by adding a new paragraph (g)(7) to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(g) * * *

(7) *Assumption of real estate loans by nonmembers.* A federal credit union may permit a nonmember to assume a member's mortgage loan in conjunction with the nonmember's purchase of the member's principal residence, provided that the nonmember assumes only the remaining unpaid balance of the loan, the terms of the loan remain unchanged, and there is no extension of the original maturity date specified in the loan agreement with the member. An assumption is impermissible if the original loan was made with the intent of having a nonmember assume the loan.

* * * * *

[FR Doc. 98–33945 Filed 12–23–98; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–360–AD; Amendment 39–10957; AD 98–25–52]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) T98–25–52 that was sent previously to all known U. S. owners and operators of all Boeing Model 747 series airplanes by individual telegrams. This AD requires revising the Airplane Flight Manual to include procedures to prevent dry operation of the center wing fuel tank override/jettison pumps and, for certain airplanes, to prohibit operation of the horizontal stabilizer tank transfer pumps in flight. This action is prompted by a report indicating that several override/jettison fuel pumps from the center wing tanks and main tanks had been removed because circuit breakers for the override/jettison fuel pumps were tripped, or low pump output pressure was indicated. The actions specified by this AD are intended to prevent contact between the rotating paddle wheel and the stationary end plates within the center wing tank override/jettison fuel pumps or horizontal stabilizer tank transfer pumps due to excessive wear of the pump shaft carbon thrust bearing, which could cause sparks and/or a hot surface condition and consequent ignition of fuel vapor in the center wing tank or horizontal stabilizer tank during dry pump operation (no fuel flowing).

DATES: Effective December 29, 1998, to all persons except those persons to whom it was made immediately effective by telegraphic AD T98–25–52, issued on December 3, 1998, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before February 22, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–360–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information pertaining to this amendment may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2686; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On December 3, 1998, the FAA issued telegraphic AD T98–25–52, which is applicable to all Boeing Model 747 series airplanes. That action was prompted by a report indicating that an operator of Boeing Model 747 series airplanes removed seven override/jettison fuel pumps from center wing tanks on several airplanes because the circuit breakers for the override/jettison fuel pumps were tripped, or low pump output pressure was indicated. Seven more pumps of the same design had been removed from the main tank override/jettison positions for the same reason on several airplanes. The pumps were found to have severe wear of the pump shaft carbon thrust bearing after only 200 hours of pump operation.

A priming stage paddle wheel is mounted on the pump shaft, and this steel paddle wheel is positioned between two steel end plates. Severe wear of the carbon thrust bearing allows the pump shaft to shift axially, which causes contact of the rotating steel paddle wheel and the stationary steel end plates. Boeing reported that, on one pump, 0.10 inch of the steel paddle wheel had worn away during 200 hours of pump operation. The cause of such severe wear is still under investigation. (Such wear conditions were not found on the center wing fuel tank override/jettison pumps that were recovered from a Model 747–100 series airplane involved in an accident, in which the airplane broke up shortly after takeoff from John F. Kennedy International Airport in Jamaica, New York, on July 17, 1996. In addition, those pumps are not believed to have been operating on the accident airplane during that flight because mission fuel had not been loaded into the center tank.)

Contact between the rotating paddle wheel and the stationary end plates within a center wing tank override/jettison fuel pump due to excessive wear of the pump shaft carbon thrust bearing can cause sparks and/or a hot surface condition. This condition, if not corrected, could ignite fuel vapor in the center wing tank during dry pump operation (no fuel flowing).

The pumps of the center wing fuel tank on Model 747 series airplanes are normally operated until the fuel in the tank is exhausted and the pump inlet is uncovered, exposing the fuel pump to dry or partially dry operation for a period of time during each flight when the center wing tank is used. The horizontal stabilizer tank on Model 747–400 series airplanes uses the same pumps and also is run dry each time it is used.

Explanation of the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued telegraphic AD T98–25–52 to require revising the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include procedures to prevent dry operation of the center wing fuel tank override/jettison pumps and, for Model 747–400 series airplanes, to prohibit operation of the horizontal stabilizer tank transfer pumps in flight.

The AFM revision provides for two options for accomplishment:

- Option 1 minimizes the effects of the limitations on available airplane payload due to maximum zero fuel weight limitations. This option ensures that the forward (right) and aft (left) center wing tank override/jettison pumps remain covered during rapid acceleration and high nose attitudes during takeoff and departure.
- Option 2 minimizes the unusable fuel retained on some Boeing Model 747–400 series airplanes, or airplanes with inoperative scavenge systems of the center wing tank. This option also ensures that the forward (right) and aft (left) center wing tank override/jettison pumps remain covered during rapid acceleration and high nose attitudes during takeoff and departure, and ensures that the shutoff of the center wing tank override/jettison pumps will not normally be required until the cruise phase of flight.

This AD is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

It should be noted that this AD does not require any interim action related to the main tank override/jettison pumps because those pumps are selected off well before the inlets are uncovered (no dry operation).

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on December 3, 1998, to all known U.S. owners and operators of all Boeing 747 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications 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–360–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 adding the following new airworthiness directive:

98–25–52 Boeing: Amendment 39–10957. Docket 98–NM–360–AD.

Applicability: All Model 747 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent contact between the rotating paddle wheel and the stationary end plates within the center wing tank override/jettison fuel pumps or horizontal stabilizer tank transfer pumps due to excessive wear of the pump shaft carbon thrust bearing, which can cause sparks and/or a hot surface condition and consequent ignition of fuel vapor in the center wing tank or horizontal stabilizer tank during dry pump operation (no fuel flowing), accomplish the following:

(a) Within 7 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following procedures. This may be accomplished by inserting a copy of this AD into the AFM.

''For Model 747–400 series airplanes equipped with a horizontal stabilizer tank, operation of the horizontal stabilizer tank transfer pumps is prohibited in flight.

A tripped circuit breaker of a center wing tank override/jettison pump or a tripped circuit breaker of a horizontal stabilizer tank transfer pump must not be reset until the associated fuel pump has been inspected for damage and any damage has been repaired.

The center wing tank override/jettison pumps must be operated in accordance with either option 1 or option 2 below.

Option 1

If the center wing tank override/jettison pumps are required for flight, the center tank must contain a minimum of 17,000 pounds (7,700 kilograms) at engine start. The fuel quantity indicating system of the center wing tank must be operative to dispatch with center wing tank fuel intended for use in the flight.

Select both center wing tank override/jettison pump switches off at or before the fuel quantity of the center wing tank reaches 7,000 pounds (3,200 kilograms). Note: On Model 747–400 series airplanes, the 'FUEL OVRD CTR L' and 'FUEL OVRD CTR R' engine indication and crew alerting system (EICAS) messages will be displayed with the switches off.

The center wing tank override/jettison pumps may be operated with less than 7,000 pounds of fuel in the center wing tank if required to address an emergency (such as fuel jettison or low fuel quantity).

OPTION 2

If the center wing tank override/jettison pumps are required for flight, the center tank must contain a minimum of 50,000 pounds (22,700 kilograms) at engine start. The fuel quantity indicating system of the center wing tank must be operative to dispatch with center wing tank fuel intended for use in the flight.

Select both center wing tank override/jettison pump switches off at or before center wing tank fuel quantity reaches 3,000 pounds (1,400 kilograms).

The center wing tank override/jettison pumps may be operated with less than 3,000 pounds of fuel in the center wing tank if required to address an emergency (such as fuel jettison or low fuel quantity).''

(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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector or Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle 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 December 29, 1998 to all persons except those persons to whom it was made immediately effective by telegraphic AD T98–25–52, issued on December 3, 1998, which contained the requirements of this amendment.

Issued in Renton, Washington, on December 15, 1998.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–33691 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–23]

Revision to Class E Airspace; Reno, NV

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 revises the legal description for the E3 airspace area designated as an extension to the Class C airspace at Reno, NV. This document also corrects the airspace legal description that was published incorrectly in the direct final rule; request for comments. The correction involves deleting ''CA'' and inserting ''NV'' to properly identify the geographic location. Additionally, coordinates for the Reno ILS Localizer and references to it have been added to the legal description to correct a previous omission. This correction is editorial in nature and does not affect the substance of the airspace action.

DATES: The direct final rule published in 63 FR 58628 is effective at 0901 UTC, January 28, 1999. The correction is also effective on January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Division, Airspace Specialist, AWP–520.11, Federal Aviation Administration, Western-Pacific Region, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION: On November 2, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments which revised the Class E airspace area consisting of airspace extending upward from the surface designated as an extension to the Class C surface area at Reno/Tahoe International Airport. (FR

Document 98–29297, 63 FR 58628, Airspace Docket No. 98–AWP–23). An error was subsequently discovered in the publication of the docket. The docket failed to cite properly the coordinates for the Reno ILS localizer in the airspace legal description. The error was an inadvertent omission, and the correction included in this document has no substantive effect on the airspace action. After review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that the correction will not change the meaning of the action, nor will it add any 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 non-controversial rule where the FAA believes that there will be no adverse public comment. The 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 January 28, 1999. No adverse comments were received; therefore this document confirms that the direct final rule will become effective on January 28, 1999.

Correction

In the rule FR Doc. 98–29297 published in the **Federal Register** on November 2, 1998, 63 FR 58628, make the following correction to the airspace description on page 58629, in the middle column:

Paragraph 6003 Class E Airspace Areas Designated as an Extension

* * * * *

AWP NV E3 Reno, NV [Revised]

Reno/Tahoe International Airport, NV
(Lat. 39°29′55″ N., long. 119°46′05″ W.)
I–RNO Localizer
(Lat. 39°28′50″ N., long. 119°46′10″ W.)

That airspace extending upward from the surface within 1.8 miles each side of the I–RNO localizer north course extending from the 5-mile radius of Reno/Tahoe International Airport to 13.1 miles north of the localizer, and within 1.8 miles each side of the I–RNO localizer south course, extending from the 5-mile radius of the airport to 9.7 miles south of the localizer.

* * * * *

Issued in Los Angeles, California on December 11, 1998.

John G. Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–34168 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AWP–22]

Establishment of Class E Airspace; Metropolitan Oakland International Airport, California; 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 establishes a Class E airspace area consisting of airspace extending upward from the surface designated as an extension to the Class C surface area at Metropolitan Oakland International Airport, California. This document also corrects the airspace legal description that was published incorrectly in the direct final rule; request for comments. Two airspace reference points, the Oakland VORTAC and the I–OAK Localizer, have been incorporated into the legal description to identify the airspace dimensions. This correction is editorial in nature and does not affect the substance of the airspace action.

DATES: The direct final rule published in 63 FR 58629 is effective at 0901 UTC, January 28, 1999. The correction is also effective on January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Division, Airspace Specialist, AWP–520.11, Federal Aviation Administration, Western-Pacific Region, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION: On November 2, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments which established a Class E airspace area consisting of airspace extending upward from the surface designated as an extension to the Class C surface area at Metropolitan Oakland International Airport, California. (FR Document 98–29299, 63 FR 58629, Airspace Docket No. 98–AWP–22). An error was subsequently discovered in the publication of the docket. The docket failed to cite two necessary geographic reference points in the airspace legal description. The error was an inadvertent omission, and the correction included in this document has no substantive effect on the airspace action. After review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that the correction will not change the meaning of the action, nor will it add any 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 non-controversial rule where the FAA believes that there will be no adverse public comment. The 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 January 28, 1999. No adverse comments were received; therefore this document confirms that the direct final rule will become effective on January 28, 1999.

Correction

In rule FR Doc. 98–29299 published in the **Federal Register** on November 2, 1998, 63 FR 58629, on page 58630, in the middle column, make the following correction to the airspace description:

Paragraph 6003 Class E Airspace Areas Designated as an Extension

* * * * *

AWPCA E3 Oakland, CA [New]

Metropolitan Oakland International Airport, CA
(Lat. 37°43′17″ N., long. 122°13′15″ W.)
I–OAK Localizer
(Lat. 37°43′54″ N., long. 122°13′34″ W.)
Oakland VORTAC
(Lat. 37°43′33″ N., long. 122°13′25″ W.)

That airspace extending upward from the surface within 2.7 miles each side of the I–OAK Localizer east course extending from the 5-mile radius of the airport to 8.5 miles east of the Oakland VORTAC, excluding that airspace within the Hayward, CA Class D airspace area when it is effective.

* * * * *

Issued in Los Angeles, California on December 11, 1998.

John G. Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 98–34167 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ANE–95]

Amendment to Class E Airspace; Rockland, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action revises the Class E airspace area at Rockland, ME (KRKD) due to the relocation of the Sprucehead Non-Directional Beacon (NDB) and to provide adequate controlled airspace for two new standard instrument approaches to the Rockland, Knox County Regional Airport.

DATES: Effective 0901 UTC, January 28, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 25, 1999.

ADDRESSES: Send comments on the rule to: Manager, Airspace Branch, ANE–520, Federal Aviation Administration, Docket No. 98–ANE–95, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7520; fax (781) 238–7596. Comments may also be sent electronically via the internet to the following address: ''9-ne-airspace@faa.gov''

The official docket file may be examined in the Office of the Regional Counsel, New England Region, ANE–7, Room 401, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7050; fax (781) 238–7055.

An informal docket may also be examined during normal business hours in the Air Traffic Division, Room 408, by contacting the Manager, Operations Branch at the first address listed above.

FOR FURTHER INFORMATION CONTACT: David T. Bayley, Air Traffic Division, Airspace Branch, ANE–520.3, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7523; fax (781) 238–7596.

SUPPLEMENTARY INFORMATION:

This action revised the Class E airspace in the vicinity of the Rockland, Knox County Regional Airport, Rockland, Maine. This action is prompted by the relocation of the Sprucehead Non-Directional Beacon (NDB) and by the addition of two new standard instrument approach procedures based on the new location of the NDB, the R/W 3 and R/W 31 NDB approaches. The NDB will be located north of its former location, and closer to the airport. The effect of these revisions will be to eliminate the extension of controlled airspace south-southwest of the airport, but expand slightly the basic radius of controlled airspace in the vicinity of the airport. Class E airspace designations for airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment, and, therefore, issues it as a direct final rule. 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. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–ANE–95.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikey to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71

of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[Amended]

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.

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Subpart E—Class E Airspace

* * * * *

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

* * * * *

ANE ME E5 Rockland, ME [Revised]

Rockland, Knox County Regional Airport, ME
(Lat. 44°03′37″ N, long. 69°05′59″ W)
Sprucehead NDB
(Lat. 44°03′01″ N, long. 69°06′18″ W)
That airpace extending upward from 700 feet above the surface within a 9-mile radius of the Knox County Regional Airport.

* * * * *

Issued in Burlington, MA, on December 11, 1998.

Bill G. Peacock,

Manager, Air Traffic Division, New England Region.

[FR Doc. 98–34166 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWP–6]

RIN 2120–AA66

Modification of VOR Federal Airway V–485; San Jose, CA; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: On September 15, 1998, the FAA published a final rule in the **Federal Register** that amended Federal airway V–485. On December 11, 1998, the FAA published a correction to the legal description of V–485. In that correction, the airway legal description contained an inadvertent error. This action corrects that error.

EFFECTIVE DATE: December 24, 1998.

FOR FURTHER INFORMATION CONTACT: William C. Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION: On December 11, 1998, the FAA published in the **Federal Register** a correction to the bearings of the Priest Intersection (INT) along V–485 (63 FR 68391). This correction was based on calculations from inaccurate magnetic bearings which, in turn, made the true bearings in error by one degree for the Priest radial, and six degrees for the San Jose radial. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the final rule amending V–485, published in the **Federal Register** (Document No. 98–24710) on September 15, 1998 (63 FR 49284); and corrected (Document No. 98–32729) on December 11, 1998 (63 FR 63891); and incorporated by reference in 14 CFR 71.1, is corrected as follows:

§ 71.1 [Corrected]

On page 49284, in the third column, the description of V–485 is corrected to read as follows:

* * * * *

V–485 [Corrected]

From Ventura, CA; Fellows, CA; Priest, CA; INT Priest 322° and San Jose, CA, 137° radials; San Jose. The airspace within W–289 and R–2519 more than 3 statute miles west of the airway centerline and the airspace within R–2519 below 5,000 feet MSL is excluded.

* * * * *

Issued in Washington, DC, on December 17, 1998.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 98–34058 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–98–106]

RIN 2115–AE46

Special Local Regulations for Marine Events; Cape Fear River, Wilmington, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being adopted for the marine event ''Countdown on the Cape Fear,'' a fireworks display to be held on the waters of the Cape Fear River, Wilmington, North Carolina. These special local regulations are necessary to control vessel traffic in the immediate vicinity of this event. The effect will be to restrict general navigation in the regulated area for the safety of spectators, and transiting vessels.

EFFECTIVE DATE: This regulation is effective from 11:30 p.m. on December 31, 1998 to 12:30 a.m. on January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Petty Officer Matheny, Marine Events Coordinator, Commander, Coast Guard Group Fort Macon, Atlantic Beach, North Carolina 28512–0237, telephone number (252) 247–2570.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The request to hold this event was not received until November 20, 1998. Publishing a notice of proposed rulemaking and delaying its effective date would be contrary to safety interests, since immediate action is needed to minimize potential danger to spectator craft and other vessel traffic transiting the event area.

Background and Purpose

On December 31, 1998, the City of Wilmington will sponsor the ''Countdown on the Cape Fear.'' The event will consist of a fireworks display fired from the USS North Carolina on the waters of the Cape Fear River, Wilmington, North Carolina. These temporary special local regulations are necessary to provide for the safety of life and property on navigable waters during the event.

Discussion of Regulations

The Coast Guard will establish temporary special local regulations on specified waters of the Cape Fear River. The regulated area will be approximately 800 yards long centered along the position of the USS North Carolina Memorial. The temporary special local regulations will be effective from 11:30 p.m. on December 31, 1998 to 12:30 a.m. on January 1, 1999, and will restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol

Commander, no person or vessel may enter or remain in the regulated area.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Since the regulations will only be in effect for one hour, the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h) of COMDTINST M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are excluded under that authority.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–T05–106 is added to read as follows:

§ 100.35–T05–106 Cape Fear River, Wilmington, North Carolina.

(a) *Definitions:*

(1) *Regulated Area.* The waters of the Cape Fear River from shoreline to shoreline, bounded on the north by a line drawn along latitude 34°14.4′ North and bounded on the south by a line drawn along latitude 34°14.0′ North. All coordinates reference Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Fort Macon.

(b) *Special Local Regulations:*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective Dates.* This temporary final rule is effective from 11:30 p.m. on December 31, 1998 to 12:30 a.m. on January 1, 1999.

Dated: December 8, 1998.

Roger T. Rufe, Jr.,

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

[FR Doc. 98–34133 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 96

[FRL–6198–1]

Correction and Clarification to the Finding of Significant Contribution and Rulemaking for Purposes of Reducing Regional Transport of Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction and clarification.

SUMMARY: The EPA is correcting and clarifying certain aspects to the requirements for 22 States and the District of Columbia to submit State implementation plan (SIP) revisions to prohibit specified amounts of emissions of oxides of nitrogen (NO_X) (also referred to as the NO_X SIP call). Most importantly, EPA is reopening the period for emissions inventory revisions to 2007 baseline sub-inventory information used to establish each State's budget in the NO_X SIP Call to February 22, 1999. This includes source-specific emission inventory data and vehicle miles traveled (VMT) and nonroad mobile growth rates, VMT distribution by vehicle class, average speed by roadway type, inspection and maintenance program parameters, and other input parameters used in the calculation of highway vehicle emissions. The comment period for 2007 baseline sub-inventory revisions will be reopened for two related notices of proposed rulemaking concerning Clean Air Act section 126 petitions (the section 126 proposal) and Federal implementation plans for the NO_X SIP call (the FIP proposal) in a future action.

DATES: This rule is effective December 28, 1998.

ADDRESSES: Dockets containing information relating to this rulemaking (docket Nos. A–96–56, A–97–43, and A–98–12) are available for public inspection at the Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, 401 M Street SW, room M–1500, Washington, DC 20460, telephone (202) 260–7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. E-mail is A–AND–R–DOCKET–GROUP@EPA.GOV.

FOR FURTHER INFORMATION CONTACT: General questions concerning today's action should be addressed to Kimber S. Scavo, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15,

Research Triangle Park, NC 27711, telephone (919) 541–3354; e-mail: scavo.kimber@epa.gov. Specific questions on emissions inventory updates should be directed to Greg Stella, Office of Air Quality Planning and Standards, Emissions Monitoring and Analysis Division, MD–14, Research Triangle Park, NC 27711, telephone (919) 541–3649; e-mail: stella.greg@epa.gov.

SUPPLEMENTARY INFORMATION: By notice dated October 27, 1998, EPA published, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' 63 FR 57356, which may be referred to as the NO_X SIP call. By notice dated September 30, 1998, EPA proposed, ''Findings of Significant Contribution and Rulemakings on Section 126 Petitions and Federal Implementation Plans for Purposes of Reducing Interstate Ozone Transport,'' 63 FR 52213. On October 21, 1998, EPA published longer, more detailed versions of these proposals entitled ''Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport,'' 63 FR 56292, and ''Federal Implementation Plans to Reduce the Regional Transport of Ozone,'' 63 FR 56394. The section 126 proposal and the FIP proposal are related to the final NO_X SIP call. The comment period for these two proposals closed on November 30, 1998.

Emission Inventory Revisions

The EPA has received numerous requests to allow more time to accept revisions to source-specific inventory data used to establish each State's base and budget in the NO_X SIP Call and to also allow revisions to VMT projections. The final SIP call, as described on page 57427, provided that the opportunity for source-specific inventory data revisions would be available for the first 60 days of the 12-month period between signature of the NO_X SIP call and the deadline for submission of the required SIP revisions (i.e., November 23, 1998). The Agency is aware of difficulties some States have had accessing the emission inventory data bases. Therefore, EPA, today, is reopening this time period to 60 days from the date of publication of this rule rather than signature of the NO_X SIP call and to accept revisions to VMT projections. However, the EPA strongly urges commenters to submit proposed changes to the inventories of EGUs greater than 25 MWe and non-EGU boilers and turbines greater than 250 mmBtu/hr within 30 days from the date of publication of this document, i.e., January 25, 1999. The EPA requests commenters submit comments on these sources first in order to facilitate incorporation of any necessary changes into the budgets for the section 126 final rulemaking which must be finalized by April 30, 1999 in accordance with the consent decree governing EPA's action on the pending section 126 petitions. The EPA recommends that commenters also submit suggested inventory revisions to the dockets for the section 126 proposal and the FIP proposal. By a future notification, EPA will reopen the comment period for those proposed actions to February 22, 1999 solely for the purpose of receiving such inventory revisions. Additionally, no changes to the emissions inventory will be made unless information, as specified in Section III.F.5 of the final NO_X SIP call, is provided to corroborate and justify the need for the requested modification. These revisions must be postmarked by February 22, 1999 and sent directly to the Docket Office listed in **ADDRESSES** (in duplicate form if possible). (Docket no. A–96–56 for the NO_X SIP call, A–97–43 for the section 126 proposal, and A–98–12 for the FIP proposal.) Sources and other non-State commenters should also send a copy of their comments concerning the inventory changes to their State air pollution control agency.

Individuals interested in modifications requested by commenters may review the materials as they are submitted and available in the dockets. With respect to the SIP call, within 60 days after the close of this comment period—i.e., by April 23, 1999—EPA will evaluate the data submitted by commenters and, if it is determined to be technically justified, revise the State budgets for the NO_X SIP call to reflect the new data.

For a comment to be considered, the data submitted in the request for modification must be submitted in electronic format (i.e., spreadsheet, data base, text file) and must be accompanied by information to support the requested change. The EPA has identified the specific data elements for each source sector that must be included in the electronic file submitted with any data modification request. For budget calculation purposes, emphasis should be on NO_X emissions, noting that other precursor emissions and modeling data are necessary for final development of the modeling inventory.

However, in many cases, not all of the inventory information needs to be corrected and resubmitted. For example, it may be the case that source-specific NO_X emission rates are incorrect, but all stack and other emissions data are acceptable. In these cases, it is not necessary to resubmit the entire inventory record data. Only source identification information and additional data that require correction need to be resubmitted. In those cases where the majority of the data are incorrect or the submission is for a new, unaccounted for source, complete files with all data fields outlined in Section III.F.5 of the final rulemaking preamble must be submitted.

For those sources so indicated above, a simplified inventory revision submittal is acceptable and must include the following information:

- Source sector needing revision.
- Identification of the specific changes requested to the inventory.
- Reason for requested change.
- All of the following sector-specific information in electronic file format:

Electric Generating Units

Data on a source-specific basis including:

- Federal Information Placement System State Code.
- Federal Information Placement System (FIPS) County Code.
- Plant name.
- Plant ID numbers (ORIS code preferred (ORIS is a coding mechanism used by the Department of Energy to track plants with EGUs), State agency tracking number also or otherwise).
- Unit ID numbers (a unit is a boiler or other combustion device).
- Unit type (also known as prime mover; e.g., wall-fired boiler, stoker boiler, combined cycle, combustion turbine, etc.).
- Primary fuel on a heat input basis.
- Maximum rated heat input capacity of unit.
- Nameplate capacity of the largest generator the unit serves.
- 1995 and 1996 ozone season heat inputs.
- 1996 (or most recent) average NO_X rate for the ozone season.

Non-EGU Point Sources

Data on a source-specific basis including:

- Federal Information Placement System State Code.
- Federal Information Placement System (FIPS) County Code.
- Plant name.
- Plant ID numbers (National Emission Data System (NEDS), Aerometric Information Retrieval System/AIRS Facility Subsystem (AIRS/AFS), and State agency tracking number also or otherwise).
- Unit ID numbers.
- Primary source classification code (SCC).

- Maximum rated heat input capacity of unit.
- 1995 ozone season or typical ozone season daily NO_X emissions.
- 1995 existing NO_X control efficiency.

Stationary Area Sources

Data on a sub-category specific basis including:

- Federal Information Placement System State Code.
- Federal Information Placement System (FIPS) County Code.
- Source classification code (SCC).
- 1995 ozone season or typical ozone season daily NO_X emissions.
- 1995 existing NO_X control efficiency.

Nonroad Mobile Sources

Data on a sub-category specific basis including:

- Federal Information Placement System State Code.
- Federal Information Placement System (FIPS) County Code.
- Source classification code (SCC).
- 1995 ozone season or typical ozone season daily NO_X emissions.
- 1995 existing NO_X control efficiency.

Highway Mobile Sources

Data on a SCC or vehicle type basis including:

- Federal Information Placement System State Code.
- Federal Information Placement System (FIPS) County Code.
- Primary source classification code (SCC) or vehicle type.
- 1995 ozone season or typical ozone season daily vehicle miles traveled (VMT).

The EPA is also accepting comments on VMT and nonroad mobile growth rates, VMT distribution by vehicle class, average speed by roadway type, inspection and maintenance program parameters, and other input parameters used in the calculation of highway vehicle emissions. These comments must be on a county-level basis and must include adequate evidence and explanation for any differences between the input parameters used in the final rulemaking budgets and the input parameters being proposed in the comments. Comments also must be consistent with other State submittals, including SIPs, transportation plans and conformity demonstrations, and other documents, or must contain an explanation for the differences between the comments and these other recent submittals and a plan to correct these other submittals to make them consistent with the comments submitted in response to this notice.

This process will not change the timeframes for the FIP (63 FR 56394) or section 126 (63 FR 56292) actions. A courtesy copy of comments mailed to Greg Stella at the address listed above would be appreciated in addition to the formal submittal to the docket(s).

Correction to Table III–1

When EPA published the final SIP call, EPA inadvertently included as Table III–1, a previous version of numbers that do not match the final budget numbers for the SIP call (see 63 FR 57410). The following Table III–1 includes corrected numbers.

TABLE III–1.—STATE BUDGETS BY ENERGY SOURCE BASIS

[Higher of 1995 or 1996 EIA data]

State	Proposed input-based budgets fossil fuel-burning generators	Revised (final) input-based budgets fossil fuel-burning generators	Output-based budgets—all generation sources	Output-based budgets—all generation sources except nuclear	Output-based budgets fossil fuel-burning generators
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Alabama	30644	29051	34949	35186	32854
Connecticut	5245	2583	7703	5173	4471
Delaware	4994	3523	2400	3225	3428
District of Columbia	152	207	100	133	142
Georgia	32433	30255	32331	31819	30922
Illinois	36570	32045	44401	27982	29701
Indiana	51818	49020	32320	43430	45985
Kentucky	38775	36753	24930	33501	34281
Maryland	12971	14807	13329	13013	13256
Massachusetts	14651	15033	11054	13292	13541
Michigan	29458	28165	32383	32145	32566
Missouri	26450	23923	19856	22776	23577
New Jersey	8191	10863	12807	11265	11508
New York	31222	30273	39635	39572	32222
North Carolina	32691	31394	32113	30257	29966
Ohio	51493	48468	39923	47301	50187
Pennsylvania	45971	52000	53629	47172	48639
Rhode Island	1609	1118	2250	3022	3213
South Carolina	19842	16290	23330	14132	13877
Tennessee	26225	25386	26499	26172	24853
Virginia	20990	18258	19155	15753	15619
West Virginia	24045	26439	22930	30811	32636
Wisconsin	17345	17972	15798	16693	16379
Total	563785	543825	543825	543825	543825

Budget Reductions for Large EGUs and Non-EGUs

The 2007 baseline inventory for large EGUs and non-EGUs is based on the universe of sources in the 1995 inventory and a growth factor which accounts both for increases in use of those sources and for new sources that commence operation after 1995. As explained in the October 27, 1998, NO_X SIP Call and as further clarified later in today's notice, the final State budgets cap emissions on all large EGUs and non-EGUs. This includes both sources that operated in 1995 and were part of the baseline inventory and new sources that commence operation after 1995. Since States must implement emission reduction strategies that either cap emissions from these sources at the levels specified in the SIP Call budgets or achieve equivalent reductions, all boilers and turbines must be classified as either EGUs or non-EGUs and as small or large. In this notice, EPA reiterates how boilers and turbines that existed in 1995 were classified. As explained above, EPA will be finalizing a revised 1995 inventory based on additional comments received. The classifications that EPA uses in this inventory are the ones that EPA will use in 2007 to determine if a unit should be included in the EGU or non-EGU portion of this budget. This notice also clarifies how EPA will classify units that commence operation after 1995.

Clarification of EGU Classification for Purposes of Estimating Budget Reductions

The following discussion clarifies EPA's classification of units as EGUs. This clarification also applies to the proposed FIP and the EPA action under section 126.[1]

Consistent with the supplemental notice of proposed rulemaking (63 FR 25902, May 11, 1998) and the accompanying technical support document related to budget development, EPA took a two-step approach to determining which of the following categories a boiler or turbine fit into: large EGU, small EGU, large non-EGU or small non-EGU. First, EPA determined if a boiler or turbine fit into the category of EGU or non-EGU. The EPA then determined if the boiler should be classified as large or small.

The EPA used three sources of data for determining if a generator's purpose included generation of electricity for sale and thus qualified the unit connected to the generator as an EGU. First, EPA treated as EGUs all units that are currently reporting under Title IV of the Clean Air Act. Second, EPA included as EGUs any additional units that were serving generators reporting to the Energy Information Administration (EIA) using Form 860 in 1995. Form 860 is submitted for utility generators. Third, EPA included units serving generators that reported to EIA using Form 867 in 1995. Since Form 867 is submitted by non-utility generators, including generators ''which consume all of their generation at the facility,'' EPA excluded any units for which EPA had information indicating that the unit was not connected to any generators that sold any electricity. This was primarily determined by excluding units that were not listed as sources that sell power under contract to the electric grid using the electric generation forecasts of the North American Electric Reliability Council.

Once EPA determined that a boiler or turbine should be classified as an EGU, EPA considered that unit a large EGU if it served a generator greater than 25 MWe and considered it a small EGU if it served a generator less than or equal to 25 MWe.

While EPA believes that this methodology was the best way to classify existing boilers and turbines given the data available, EPA does not believe that this is the best way to classify new boilers or turbines for regulatory purposes. The EPA will continue to use this methodology to classify units that operated on or before December 31, 1995 as EGUs or non-EGUs. Any requests to change the EGU/non-EGU categorization of a unit operating on or before December 31, 1995 that EPA has categorized as an EGU or a non-EGU or any requests to add a unit operating on or before December 31, 1995 that has not been categorized as an EGU or a non-EGU should follow the methodology based on data reported to EPA and EIA, outlined above. Once EPA responds to comments received, EPA does not intend to reclassify units that were in operation before January 1, 1996 because, as discussed below, EPA uses a different approach to classify units that commence operation on or after January 1, 1996. However, EPA may reconsider unit classifications in 2007 along with the 2007 transport reassessment.

The EPA believes there are two important reasons that the methodology outlined above is not appropriate to use on an ongoing basis for new boilers or turbines. First, EPA is concerned about the completeness of data using this methodology. The EPA has this concern because there are limited consequences to not reporting to EIA and because EPA has no assurance that sources will continue to be required to report to EIA using the same forms. Second, because of changes in the electric generation industry and because of regulatory developments such as the SIP call, owners and operators of units may have an incentive to install small (25 MWe or less) generators to larger boilers or turbines that are primarily used for industrial processes and not electricity generation. Such sources should be considered large and be controlled.

For units commencing operation on or after January 1, 1996, EPA plans to use the following two-step process. First, EPA intends to classify as an EGU any boiler or turbine that is connected to a generator greater than 25 MWe from which any electricity is sold. This will be based on information reported directly to the State under the SIP (or EPA in the case of a FIP or section 126 action). The EPA believes this addresses the first concern about completeness of data, as discussed in the previous paragraph. Second, if a boiler or turbine is connected to a generator equal to or less than 25 MWe from which any electricity is sold, it will be considered a small EGU if it has the potential to use more than 50.0 percent of the usable energy from the boiler or turbine to generate electricity. This will address EPA's second concern (discussed in the previous paragraph) about owners or operators of large boilers and turbines that have small generators. All other boilers and turbines (including boilers and turbines connected to generators equal to or less than 25 MWe from which any electricity is sold and which have the potential to use 50.0 percent or less of the usable energy from the boiler or turbine to generate electricity) will be considered non-EGUs and the process described below should be used to classify those units as large or small. Once a unit has been classified, EPA does not intend to reclassify that unit, but may reconsider unit classification in 2007 along with the 2007 transport reassessment.

Clarification of Non-EGU Large Source Classification for Purposes of Estimating Budget Reductions

The following discussion clarifies EPA's classification of ''large'' and ''small'' sources for categories of the non-EGU point sources affected by the emissions budget reductions. The ''large'' non-EGU point source categories involved in the budget reductions are boilers, turbines, stationary internal combustion engines, and cement plants. The following method was used to

[1] If any comments are received on the following EGU classification, EPA will consider them in the context of its final section 126 and FIP actions.

identify ''large'' and ''small'' non-EGU boilers and turbines (for more detailed information refer to the ''Development of Modeling Inventory and Budgets for Regional SIP Call'' document, September 24, 1998, in docket A–96–56):

1. Where boiler heat input capacity data were available for a unit, those data were used. Units with such data that are less than or equal to 250 mmBtu are ''small'' and units greater than 250 mmBtu/hr are ''large.''

2. Where boiler heat input capacity data were not available for a unit, those data were estimated, as described in the NPR and SNPR. Units estimated to be greater than 250 mmBtu/hr are ''large.''

3. Where boiler heat input capacity data were not available for a unit and where the boiler capacity was estimated to be less than 250 mmBtu/hr, 1995 point-level emissions were checked for each unit. If the 1995 average daily ozone season emissions were greater than one ton, the unit was categorized as a ''large'' source; otherwise, the unit was categorized as a ''small'' source.

A stationary internal combustion engine and a cement plant were determined to be ''large'' if its 1995 average daily ozone season emissions were greater than one ton. The heat input capacity does not affect its classification as large or small.

Clarification to 40 CFR 51.121(f)(2)(ii)

This notice clarifies that 40 CFR 51.121(f)(2)(ii) requires that if a State controls large EGUs and large non-EGU boilers, turbines and combined cycle units for purposes of complying with the NO_X SIP call, those control measures must assure that collectively all such sources, including new or modified units, will not exceed the total NO_X emissions projected for such sources and that those control measures must be in place no later than May 1, 2003. The amendment made to 40 CFR 51.121(f)(2)(ii) in this correction notice also clarifies that if SIP rules allow the large EGUs and large non-EGU boilers, turbines, and combined cycle units to use credits from the State compliance supplement pool, those units may use credit from the State compliance supplement pool during the 2003 or 2004 control seasons.

Section 51.121(f)(2)(ii) in the October 27 final SIP call requires that if a State elects to impose control measures on fossil fuel-fired NO_X sources serving electric generators with a nameplate capacity greater than 25 MWe or boilers, combustion turbines or combined cycle units with a maximum design heat input greater than 250 mmBtu/hr, those measures must assure that collectively all such sources, including new or modified units, will not exceed in the 2007 ozone season the total NO_X emissions projected for such sources. Section 51.121(b)(1)(i) requires that SIP revisions must contain control measures adequate to prohibit NO_X emissions in excess of the budget for that jurisdiction and 40 CFR 51.121(b)(1)(ii) requires that those control measures be implemented by May 1, 2003. Therefore, 40 CFR 51.121(f)(2)(ii) is amended to contain an explicit reference to 40 CFR 51.121(b)(1)(i) and (ii). This amendment clarifies that the control measures adopted for large EGUs and large non-EGU boilers, turbines, and combined cycle units sources, including new or modified units, must be in place by May 1, 2003.''

Additionally, by referencing 40 CFR 51.121(b)(1)(i) (40 CFR 51.121(b)(1)(i) references 40 CFR 51.121(e) which provides for distribution of the compliance supplement pool) in 40 CFR 51.121(f)(2)(ii), this notice clarifies that if SIP rules allow large EGUs and large non-EGU boilers, turbines and combined cycle units to use credits from the State compliance supplement pool, those sources, including new or modified units, may demonstrate compliance in the 2003 and 2004 control seasons using credit from the compliance supplement pool.

Correction to 40 CFR 96.42

This notice corrects the formula for distributing unused allowances in the new source set-aside back to existing sources. The October 27 final SIP call mistakenly included an extra parenthesis in the text of 40 CFR 96.42. The text of 40 CFR 96.42 is corrected to remove the extra parenthesis so that the formula reads: Unit's share of NO_X allowances remaining in allocation set-aside = Total NO_X allowances remaining in allocation set-aside × (Unit's NO_X allowance allocation ÷ State trading program budget excluding allocation set-aside).

Correction to Page 57,404

On page 57,404, third column, the carryover sentence, beginning, ''The Air Quality Modeling TSD * * *'' is inaccurate and is replaced with the following: ''The 'National Air Quality and Emissions Trends Report, 1996,' included in the docket as VI–C–18, contains information as to the reductions in ozone values that have resulted from these controls.''

Administrative Requirements

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).

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This action also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This action also is not subject to Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks) (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This action is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. In addition, the National Technology Transfer and Advancement Act of 1997 (NTTAA) does not apply because today's action does not require the public to perform activities conducive to the use of voluntary consensus standards under that Act. The EPA's compliance with these statutes and Executive Orders for the underlying rule, the final NO_X SIP call, is discussed in 63 FR 57477–81 (October 27, 1998).

List of Subjects

40 CFR Part 51

Environmental protection, Air pollution control, Administrative practice and procedure, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Transportation, Volatile organic compounds.

40 CFR Part 96

Environmental protection, Administrative practice and procedure, Air pollution control, Nitrogen dioxide, Reporting and recordkeeping requirements.

Dated: December 18, 1998.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

40 CFR parts 51 and 96 are amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart G—Control Strategy [Amended]

2. Section 51.121 is amended to revise paragraphs (e)(4) introductory text and (f)(2)(ii) to read as follows:

§ 51.121 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen.

* * * * *

(e) * * *

(4) If, no later than February 22, 1999, any member of the public requests revisions to the source-specific data and vehicle miles traveled (VMT) and nonroad mobile growth rates, VMT distribution by vehicle class, average speed by roadway type, inspection and maintenance program parameters, and other input parameters used to establish the State budgets set forth in paragraph (e)(2) of this section or the 2007 baseline sub-inventory information set forth in paragraph (g)(2)(ii) of this section, then EPA will act on that request no later than April 23, 1999 provided:

* * * * *

(f) * * *

(2) * * *

(ii) Impose enforceable mechanisms, in accordance with paragraphs (b)(1) (i) and (ii) of this section, to assure that collectively all such sources, including new or modified units, will not exceed in the 2007 ozone season the total NO_X emissions projected for such sources by the State pursuant to paragraph (g) of this section.

* * * * *

PART 96—NO_X BUDGET TRADING PROGRAM FOR STATE IMPLEMENTATION PLANS

3. The authority citation for part 96 continues to read:

Authority: U.S.C. 7401, 7403, 7410, and 7601.

4. Section 96.42 is amended in paragraph (f) to revise the formula immediately preceding the word ''Where:'' to read as follows:

§ 96.42 NO_X allowance allocations.

* * * * *

(f) * * *

Unit's share of NO_X allowances remaining in allocation set-aside = Total NO_X allowances remaining in allocation set-aside × (Unit's NO_X allowance allocation ÷ State trading program budget excluding allocation set-aside)

* * * * *

[FR Doc. 98–34150 Filed 12–23–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 266 and 273

[FRL–6207–7]

RIN 2050–AD19

Universal Waste Rule (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program)

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correcting amendments.

SUMMARY: The Environmental Protection Agency (EPA) is correcting errors that appeared in the Universal Waste Rule which was published in the **Federal Register** (FR) on May 11, 1995 (60 FR 25492). This final rule creates no new regulatory requirements; rather it: makes three corrections to the regulations governing management of spent lead-acid batteries that are reclaimed; corrects the definition of a small quantity universal waste handler; and clarifies the export requirements which apply to destination facilities when destination facilities act as universal waste handlers.

EFFECTIVE DATE: December 24, 1998.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline at (800) 424–9346 (toll free) or TDD 800 553–7672 (hearing impaired). Contact the RCRA Hotline in the Washington, D.C. metropolitan area at (703) 412–9810 or TDD 703 412–3323. For specific information concerning the Universal Waste Rule, contact Mr. Bryan Groce at (703) 308–8750, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, mailcode 5304W. This rule is available on the Internet. Please follow these instructions to access the rule electronically: From the World Wide Web (WWW), type://www.epa.gov/epaoswer, then select option for Laws and Regulations. The official record for this action is kept in a paper format.

SUPPLEMENTARY INFORMATION:

Table of Contents

1. What Is the Statutory Authority for This Rule?

EPA is issuing this rule under the authority of sections 1006, 2002(a), 3002, 3003, 3004, 3005, 3010 and 3017 as amended by the Resource Conservation and Recovery Act of 1976 (codified as 42 U.S.C. 6905, 6912(a), 6922, 6923, 6924, 6925, 6930, and 6937).

2. Does This Rule Create Any New Federal Requirements?

No. This rule is a technical correction and creates no new regulatory requirements. Rather, it corrects certain regulatory provisions that apply to regenerating and storing lead-acid batteries. The lead-acid battery provisions and the provisions for battery regeneration were originally included in a final rule promulgated on January 4, 1985 Final Rule (50 FR 614) and were mistakenly changed, deleted or incorrectly worded in the final Universal Waste Rule of May 11, 1995 (60 FR 25492). This rule also corrects the definition of a small quantity universal waste handler, and clarifies the export requirements which apply to destination facilities when destination facilities act as universal waste handlers.

3. What Does This Rule Do?

This rule amends portions in Chapter 40 of the Code of Federal Regulations (CFR) Parts 266 and 273. Specifically, the rule:

(a) Clarifies the lead-acid battery regeneration exemption (40 CFR 266.80(a)).

(b) Clarifies that lead-acid batteries that are stored before reclamation other than regeneration must be managed in accordance with the lead-acid battery storage requirements. (See 40 CFR 266.80(b)).

(c) Reinserts the spent lead-acid battery storage requirements which were mistakenly left out in the May 11, 1995 Universal Waste Rule.

(d) Corrects the current definition of small quantity universal waste handler found in the regulatory text in order to be consistent with the correct definition in the preamble to the final rule (40 CFR 273.6).

(e) Corrects preamble statements providing the regulatory references for universal waste export requirements that apply to destination facilities.

4. Why Are the Clarifications and Corrections in This Rule Necessary?

The Universal Waste Rule inadvertently:

(a) Created confusion about requirements for handling spent lead-acid batteries that will be regenerated.

(b) Deleted management requirements for storing lead-acid batteries before reclaiming them.

(c) Defined ''small quantity handler of universal waste'' incorrectly.

(d) Included in the preamble an incorrect citation for export requirements which apply to destination facilities that export universal wastes.

5. What Other Changes Have Been Made as a Result of This Rule?

EPA has chosen to rewrite and reorganize § 266.80, which covers requirements for lead-acid batteries that are to be reclaimed so that they are clearer and easier to use. These changes are made as part of the Agency's ongoing efforts at regulatory reinvention. Although the format has changed as a result of rewriting the regulatory text in ''plain language,'' this final rule creates no new regulatory requirements. EPA is not intending to revise, reopen or reconsider the merits of any other aspects of the existing regulatory requirements at 40 CFR 266.80.

It is important to understand that all of the requirements found in today's final regulations, including those set forth in table format, constitute binding, enforceable legal requirements. The plain language format used in today's final regulation for lead-acid batteries may appear different from other rules, but it establishes binding, enforceable legal requirements like those in the existing regulations at 40 CFR part 266.

6. What Federal Requirements Apply to Spent Lead-Acid Batteries?

The federal regulations that apply to spent lead-acid batteries have changed over time. The following table summarizes how the requirements have evolved:

Date	Rule	Legal requirements
1–4–85	40 CFR 266.30 (subsequently changed to 40 CFR 266.80).	(1) Exempts spent lead-acid batteries from hazardous waste management requirements when they are: (a) Handled by anyone (i.e., retailers, wholesalers, local service stations) other than reclaimers (i.e., a battery cracker or secondary lead smelter); (b) Collected and stored at intermediate facilities (i.e., collection facilities) before being sent to reclaimers; and (c) Transported. (2) Requires battery crackers or secondary lead smelters to manage spent lead-acid batteries as hazardous waste when storing the batteries before reclaiming them.
1–4–85	40 CFR 261.6(a)(3)(ii)	Exempts spent lead-acid and other batteries from hazardous waste management requirements if they are returned to a battery manufacturer for regeneration.
5–11–95	Universal Waste Rule 40 CFR Part 273 ..	(1) Removed the provision (40 CFR 261.6(a)(3)(ii)) that exempted batteries from hazardous waste management requirements if they are to be regenerated. (2) Non-lead acid batteries (except as provided in Public Law 104–142, entitled the ''Mercury-containing and Rechargeable Battery Management Act'') may be managed in accordance with requirements in either: (a) Universal Waste Rule (40 CFR Part 273); or (b) Full Subtitle C regulation (40 CFR Parts 260 through 272). (3) Spent lead-acid batteries may be managed according with requirements of either: (a) Universal Waste Rule (40 CFR Part 273); or (b) Special requirements in 40 CFR 266 Subpart G.

Date	Rule	Legal requirements
5–13–96	Mercury-Containing and Rechargeable Battery Management Act (PL 104–142) Section 104(a), to be codified in a future EPA action, but directly enforceable as a matter of law on the date of passage.	(1) Requires that the collection, storage, and transportation of the following types of batteries be regulated under the May 11, 1995 Universal Waste Rule: (a) Used rechargeable batteries (b) Certain lead-acid batteries not managed under 40 CFR 266 Subpart G (c) Rechargeable alkaline batteries (d) Certain mercury-containing batteries banned for domestic sale (e) Used consumer products containing rechargeable batteries that aren't easily removable.
	Section 104(a)(2) of the Mercury-Containing and Rechargeable Battery Management Act.	(2) Stipulates that section 104(a) does not apply to any lead-acid battery that is managed in accordance with requirements in 40 CFR 266 Subpart G or equivalent requirements in an approved state program.

7. Why Are There Two Options for Managing Lead-Acid Batteries?

EPA included lead-acid batteries in the Universal Waste Rule as a convenience to generators and handlers that accumulate different types of spent hazardous waste batteries. In some cases, it may be easier to manage all spent batteries in the same way under the Universal Waste Rule, rather than separating out the lead-acid batteries for handling under 40 CFR Part 266. EPA retained the requirements for lead-acid batteries in 40 CFR 266.80 because they have resulted in a very successful recycling program for automotive batteries. Ninety percent of all used automotive lead-acid batteries are recycled.

8. Is Lead-Acid Battery Regeneration A Type of Reclamation? If Yes, Why Did EPA Decide to Regulate It Differently From Other Lead-Acid Battery Reclamation?

Yes, regeneration is a type of reclamation that EPA has authority to regulate. However, in 1985 EPA chose to exempt it from regulation because battery regeneration posed low environmental risks and resembled recycling activities that EPA did not regulate. (See 48 FR at 14496; 50 FR at 649.) Exempt ''regeneration'' includes only replacing drained electrolyte fluids and replacing ''bad'' battery cells. (See 48 FR at 14496.)

EPA felt that the recycling of lead-acid batteries to recover lead posed different environmental risks. (See 48 FR at 14496, note 50.) The lead recovery process involves cracking battery casings and smelting the lead plates. EPA chose to regulate storage by battery reclaimers prior to this type of reclamation. EPA also noted that wastes from the reclamation process would continue to be regulated. (See 48 FR at 14496.) EPA chose not to regulate storage by other persons and chose not to regulate transportation, finding that a number of factors made regulation unnecessary. (See 48 FR 14498–99.) Today's clarification of the lead-acid battery rules does not change any requirements and does not provide new opportunity under section 7006 of RCRA to challenge the earlier actions that put the rules in place.

9. How Does Today's Technical Correction Clarify Requirements for Handling Spent Lead-Acid Batteries That Will Be Regenerated?

As currently drafted, 40 CFR 266.80(a), reads: ''Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are not subject to regulation under parts 262 through 266 or part 270 or 124 of this chapter * * *''. We are concerned that the meaning of the phrase within the parentheses isn't clear. Today's technical correction changes 40 CFR 266.80(a) by replacing it with a table that more fully explains when lead-acid batteries are exempt from hazardous waste management requirements. The table reflects EPA's original intent (as expressed in the Universal Waste Rule published on May 11, 1995) for the amendment made to 40 CFR 266.80.

10. How Does Today's Technical Correction Affect Management Requirements for Storing Lead-Acid Batteries Before Reclaiming Them?

Today's action does not change any management requirements for storage of lead-acid batteries. When EPA amended 40 CFR 266.80 in the final Universal Waste Rule, the management requirements for storing spent lead-acid batteries before reclamation were mistakenly deleted. (Compare 40 CFR 266.80(b)(1)–(4)(1994 edition) with § 266.80(b) at 60 FR 25542.) Today's technical correction restores to 40 CFR 266.80(b) the deleted storage requirements for spent lead-acid batteries when the batteries aren't regenerated. In addition, for the sake of clarity, the restored requirements have been reorganized by separating the requirements for interim status facilities and permitted facilities. Further, the restored requirements have been reorganized so that they are presented in a more readable format. Although the requirements have been separated and reformatted, they are substantively the same as those mistakenly deleted. In other words, there are no new requirements as a result of these modifications.

Specifically, the restored provisions list the applicable requirements for interim status facilities, which include: (1) Notification requirements under section 3010 of RCRA; (2) All applicable provisions in subpart A of 40 CFR part 265; (3) All applicable provisions in subpart B of 40 CFR part 265 (but not § 265.13, dealing with waste analysis); (4) All applicable provisions in subparts C and D of 40 CFR part 265; (5) All applicable provisions in subpart E of 40 CFR part 265 (but not §§ 265.71 and 265.72, dealing with the use of the manifest and manifest discrepancies); (6) All applicable provisions in subparts F through L of 40 CFR part 265 of this chapter; and (7) All applicable provisions in 40 CFR parts 270 and 124.

Likewise, the restored provisions list the applicable requirements for permitted facilities which include: (1) Notification requirements under section 3010 of RCRA; (2) All applicable provisions in subpart A of 40 CFR part 264; (3) All applicable provisions in subpart B of 40 CFR part 264 (but not § 264.13, dealing with waste analysis); (4) All applicable provisions in subparts C and D of 40 CFR part 264; (5) All applicable provisions in subpart E of 40 CFR part 264 (but not § 264.71 or § 264.72, dealing with the use of the manifest and manifest discrepancies); (6) All applicable provisions in subparts F through L of 40 CFR part 264; and (7) All applicable provisions in 40 CFR parts 270 and 124. Again, EPA takes the position that this clarification of existing provisions does not provide new opportunity to challenge them.

11. How Does Today's Technical Correction Change the Definition of ''Small Quantity Handler of Universal Waste?''

Today's technical correction changes the current definition of ''small quantity handler of universal waste'' by making it consistent with the definition in the preamble to the May 11, 1995 Universal Waste Final rule. The correction clearly distinguishes the difference between a small quantity handler of universal waste and a large quantity handler of universal waste. Without today's technical correction, there is the potential for confusion when distinguishing small quantity handlers from large quantity handlers since the current regulatory definitions are not mutually exclusive.

Current definition of small quantity handler of universal waste	Newly corrected definition of small quantity handler of universal waste
''A small quantity handler of universal waste means a universal waste handler (as defined in this section) who does not accumulate more than 5000 kilograms total of universal waste* * *.	''A small quantity handler of universal waste means a universal waste handler (as defined in this section) who does not accumulate 5000 kilograms or more total of universal waste* * *.

12. How Is EPA Correcting Requirements Related to Exports of Universal Wastes?

The discussion of destination facility requirements in the preamble to the final Universal Waste Rule (60 FR 25533–34) states that the export requirements for destination facilities are included in the final rule as ''subpart E, § 273.63.'' This citation is incorrect; § 273.63 does not exist. A destination facility that sends universal waste to a foreign destination (i.e., outside the United States) is subject to either:

(a) Section § 273.20 or § 273.40 depending on their universal waste handler classification, or (b) Section § 273.56 if the destination facility actually transports universal waste to a foreign destination.

In addition, on page 25534 of the preamble to the final universal waste rule, there is a parenthetical statement at the end of the first paragraph referring the reader to section III.F.10 of the preamble for a discussion of issues related to exports of universal waste. The citation is incorrect. The discussion of issues related to exports of universal waste is in section IV.E.10 of the preamble to the final rule. Since the errors mentioned above were made in the preamble of the Universal Waste Rule, the export requirements for universal wastes are unaffected by today's rule.

13. Why Isn't EPA Proposing These Changes for Public Comment and Establishing an Effective Date Later Than the Promulgation Date?

Today's technical correction creates no new regulatory requirements. It reinstates regulatory language that was mistakenly changed in a previous EPA rule, and clarifies existing regulatory requirements. For these reasons, EPA finds that good cause exists under 5 U.S.C. 553(b)(3)(B) to issue these corrections as a final rule without notice and opportunity for comment. For the same reasons, EPA finds that there is good cause under 5 U.S.C. 553(d)(3) and 42 U.S.C. 6930(b)(3) (section 3010(b)(3) of RCRA) to make this regulation immediately effective upon promulgation.

14. Does This Technical Correction Meet Conditions Described in the Executive Order 12866, the Regulatory Flexibility Act, the Unfunded Mandates Reform Act of 1995, the Paperwork Reduction Act, the National Technology Transfer and Advancement Act of 1995, and Executive Orders 13045, 12875, and 13084?

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51.735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.''

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Enforcement and Fairness Act, 5 U.S.C. 601–612, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. EPA has determined that today's rule will not have a significant economic impact on a substantial number of small entities. The rule does not impose any additional burdens on small entities because it does not create any new regulatory requirements. Therefore, EPA has determined that it is appropriate to certify that this rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995

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 their regulatory actions on State, local, and tribal governments and the private sector. For the reason described above, that the rule does not create any new requirements, it does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or for the private sector. The rule likewise contains no regulatory requirements that might significantly or uniquely affect small governments under section 203 of the UMRA and imposes no burdens that may result in annual expenditures of $100 million or more. Accordingly, the requirements of UMRA do not apply.

Paperwork Reduction Act

Since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it does not affect requirements under the Paperwork Reduction Act.

The National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies.

The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This technical correction action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary standards in this rulemaking.

Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This technical correction is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this action is not an economically significant rule, and it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's technical correction does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Today's rule corrects errors to existing regulations governing management of spent lead-acid batteries that are reclaimed and corrects the definition of small quantity universal waste handlers. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's technical correction does not significantly or uniquely affect the communities of Indian tribal governments. Today's rule corrects errors to existing regulations governing management of spent lead-acid batteries that are reclaimed and corrects the definition of small quantity universal waste handlers. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

15. Has EPA Submitted This Rule 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 in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2) as amended.

List of Subjects

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Petroleum, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 273

Hazardous materials transportation, Hazardous waste.

Dated: December 8, 1998.

Timothy Fields, Jr.,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR parts 266 and 273 is amended as follows:

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 1006, 2002(a), 3004, and 3014, 6905, 6906, 6912, 6922, 6923, 6924, 6925, and 6937.

Subpart G—Spent Lead-Acid Batteries Being Reclaimed

2. Section 266.80 is revised to read as follows:

§ 266.80 Applicability and requirements.

(a) Are spent lead-acid batteries exempt from hazardous waste management requirements? If you generate, collect, transport, store, or regenerate lead-acid batteries for reclamation purposes, you may be exempt from certain hazardous waste management requirements. Use the following table to determine which requirements apply to you. Alternatively, you may choose to manage your spent lead-acid batteries under the ''Universal Waste'' rule in 40 CFR part 273.

If your batteries * * *	And if you * * *	Then you * * *	And you * * *
(1) Will be reclaimed through regeneration (such as by electrolyte replacement).		are exempt from 40 CFR Parts 262 (except for § 262.11) 263, 264, 265, 266, 268, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR Parts 261 and 262.11 of this chapter.
(2) Will be reclaimed other than through regeneration.	generate, collect, and/or transport these batteries.	are exempt from 40 CFR Parts 262 (except for § 262.11) 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR Parts 261 and 262.11, and applicable provisions under Part 268.
(3) Will be reclaimed other than through regeneration.	store these batteries but you aren't the reclaimer.	are exempt from 40 CFR Parts 262 (except for § 262.11) 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR Parts 261, 262.11, and applicable provisions under Part 268.
(4) Will be reclaimed other than through regeneration.	store these batteries before you reclaim them.	must comply with 40 CFR 266.80(b) and as appropriate other regulatory provisions described in 266.80(b).	are subject to 40 CFR Parts 261, 262.11, and applicable provisions under Part 268.
(5) Will be reclaimed other than through regeneration.	don't store these batteries before you reclaim them.	are exempt from 40 CFR Parts 262 (except for § 262.11) 263, 264, 265, 266, 270, 124 of this chapter, and the notification requirements at section 3010 of RCRA.	are subject to 40 CFR Parts 261, 262.11, and applicable provisions under Part 268.

(b) If I store spent lead-acid batteries before I reclaim them but not through regeneration, which requirements apply? The requirements of paragraph (b) of this section apply to you if you store spent lead-acid batteries before you reclaim them, but you don't reclaim them through regeneration. The requirements are slightly different depending on your RCRA permit status.

(1) For Interim Status Facilities, you must comply with:

(i) Notification requirements under section 3010 of RCRA.

(ii) All applicable provisions in subpart A of part 265 of this chapter.

(iii) All applicable provisions in subpart B of part 265 of this chapter except § 265.13 (waste analysis).

(iv) All applicable provisions in subparts C and D of part 265 of this chapter.

(v) All applicable provisions in subpart E of part 265 of this chapter except §§ 265.71 and 265.72 (dealing with the use of the manifest and manifest discrepancies).

(vi) All applicable provisions in subparts F through L of part 265 of this chapter.

(vii) All applicable provisions in parts 270 and 124 of this chapter.

(2) For Permitted Facilities.

(i) Notification requirements under section 3010 of RCRA.

(ii) All applicable provisions in subpart A of part 264 of this chapter.

(iii) All applicable provisions in subpart B of part 264 of this chapter (but not § 264.13 (waste analysis).

(iv) All applicable provisions in subparts C and D of part 264 of this chapter.

(v) All applicable provisions in subpart E of part 264 of this chapter (but not § 264.71 or § 264.72 (dealing with the use of the manifest and manifest discrepancies).

(vi) All applicable provisions in subparts F through L of part 264 of this chapter.

(vii) All applicable provisions in parts 270 and 124 of this chapter.

PART 273—STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

3. The authority citation for part 273 continues to read as follows:

Authority: 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937.

4. Section 273.6 is amended by revising the definition of ''Small Quantity Handler of Universal Waste'' to read as follows:

§ 273.6 Definitions.

* * * * *

Small Quantity Handler of Universal Waste means a universal waste handler (as defined in this section) who does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, or thermostats, calculated collectively) at any time.

* * * * *

[FR Doc. 98–34044 Filed 12–23–98; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF DEFENSE

48 CFR Chapter 2

Defense Federal Acquisition Regulation Supplement; Technical Amendments to Update Activity Names and Addresses

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement is amending the Defense Federal Acquisition Regulation Supplement to update names and addresses of DoD activities.

EFFECTIVE DATE: December 24, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350.

List of Subjects in 48 CFR Chapter 2

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Appendix G to Chapter 2 is amended as follows:

1. The authority citation for 48 CFR Appendix G to subchapter I continues to read as follows:

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

Appendix G To Chapter II—Activity Address Numbers

2. Appendix G to Chapter 2 is amended in Part 5 by adding a new entry at the end to read as follows:

PART 5—AIR FORCE ACTIVITY ADDRESS NUMBERS

* * * * *

FA8770

MSG/PK, 4375 Childlaw Road, Room C022, Wright Patterson AFB, OH 45433–5006

3. Appendix G to Chapter 2 is amended by revising Part 9 to read as follows:

PART 9—DEFENSE THREAT REDUCTION AGENCY ACTIVITY ADDRESS NUMBERS

DTRA01 8z

Defense Threat Reduction Agency/ AM, 45045 Aviation Drive, Dulles, VA 20166–7517

(ZT01)

DTRA02 ON

Defense Threat Reduction Agency, Field Command, ATTN: Acquisition Management Office (FCA), 1680 Texas Street, SE, Kirtland AFB, NM 87115–5669

(ZT02)

PART 11—[REMOVED AND RESERVED]

4. Appendix G to Chapter 2 is amended by removing and reserving Part 11.

[FR Doc. 98–34152 Filed 12–23–98; 8:45 am]

BILLING CODE 5000–04–M

Proposed Rules

Federal Register
Vol. 63, No. 247
Thursday, December 24, 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

Agricultural Marketing Service

7 CFR Part 201

[No. LS–94–012]

RIN 0581–AB55

Amendments to Regulations Under the Federal Seed Act; Extension of Comment Period on Proposed Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of comment period on proposed rule to amend the Regulations under the Federal Seed Act (FSA).

SUMMARY: The Agricultural Marketing Service (AMS) is extending the public comment period from December 21, 1998, until February 4, 1999, on the proposed rule to amend the Regulations under FSA. The proposed changes would designate seeds of species listed in the Federal Noxious Weed Act (FNWA) as noxious in interstate commerce, add kinds to the list of those subject to the FSA, update the seed testing regulations, update the seed certification regulations, and correct several minor errors. This proposed rule was published in the **Federal Register** on October 20, 1998.

DATES: Written comments must be received on or before February 4, 1999.

ADDRESSES: Send comments to Dr. Richard C. Payne, Acting Chief, Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, USDA, Room 209, Building 306, BARC–E., Beltsville, Maryland 20705–2325. Comments will be available for public inspection during regular business hours in Room 209, Building 306, BARC–E., Beltsville, Maryland.

FOR FURTHER INFORMATION CONTACT: Dr. Richard C. Payne, Acting Chief, Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, Room 209, Building 306, BARC–E., Beltsville, Maryland 20705–2325. Telephone 301/504–9430, FAX 301/504–5454.

SUPPLEMENTARY INFORMATION:

Purpose

A proposed rule was published in the **Federal Register** on October 20, 1998 (63 FR 55964). The purpose of the proposed rule is to designate seeds of species listed in the FNWA as noxious and prohibit the shipment of agricultural and vegetable seeds containing them, to add two kinds to the list of those subject to FSA, to update the seed testing regulations, to update the seed certification regulations, and to correct several minor errors in the regulations.

Reason for Granting the Extension

The American Seed Trade Association (ASTA), a national trade organization representing nearly 800 seed companies, that will be affected by the proposal, has requested a 45-day extension of the comment period. ASTA had requested the extension to address concerns raised by ASTA members. Several ASTA committees and the ASTA Board of Directors will be meeting in late January. The meetings will provide ASTA an opportunity to consider the proposed regulations and prepare comments.

After careful consideration of the request submitted to the Agency, AMS has decided to grant an extension of the comment period for an additional 45 days or until February 4, 1999. AMS believes this 45-day extension making a total comment period of 105 days provides a sufficient period of time for all interested persons to review the proposed rule and submit comments. Accordingly, AMS is extending the comment period on the proposed rule until February 4, 1999.

Authority: 7 U.S.C. 1592.

Dated: December 21, 1998.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 98–34206 Filed 12–23–98; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

Domestic Licensing of Special Nuclear Material; Request For Public Comments on Rulemaking Activities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Request for public input on rule development.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is making available, through the use of the Internet, draft rule language and associated guidance documents governing Domestic Licensing of Special Nuclear Material and requesting public comment. The Commission has directed the staff to continue public discussion of all relevant documents with stakeholders, including use of the Internet, and submit a revised proposed rulemaking package for Commission approval in June 1999. After Commission approval, a proposed rule will be published for public comment.

DATES: Public input is solicited during development of the proposed rule package, but to be most helpful, should be received by dates that will be specified on the Internet site. Comments received after the dates specified will be considered for development of the proposed rule if it is practical to do so, but the Commission is only able to ensure consideration of comments received on or before the specified dates. If appropriate, late comments may be considered as part of the comments received during the formal public comment period on the proposed rule.

ADDRESSES: A copy of the draft rule language and associated documents can be obtained either electronically at the NRC Technical Conference Forum Website under the topic ''Revised Requirements for the Domestic Licensing of Special Nuclear Material (Part 70)'' at http://techconf.LLNL.gov/cgi-bin/topics or from the NRC's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555; telephone 202–634–3273; fax 202–634–3343.

Comments may be posted electronically on the NRC Technical Conference Forum Website at *http://techconf.llnl.gov/cgi-bin/messages?dom—lic*. Comments

submitted electronically can also be viewed at that Website. Comments may also be mailed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Theodore S. Sherr, Andrew Persinko, or Barry T. Mendelsohn; Telephone (301) 415–7218, (301) 415–6522, or (301) 415–7270; Email TSS@NRC.GOV, AXP1@NRC.GOV, or BTM1@NRC.GOV; Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

In a December 1, 1998 Staff Requirements Memorandum, the Commission disapproved publication of the staff's draft proposed rule. The Commission directed the staff to continue to discuss all relevant documents with stakeholders (NEI, Department of Energy, and others) in public, including use of the Internet, and submit a revised proposed rulemaking package to the Commission for approval six months from December 1, 1998. In the process of developing a revised draft proposed rule package, the NRC staff will periodically make interim drafts publicly available, as noted above, and seek comments on those drafts. When the Commission has approved a proposed rule, it will be published in the **Federal Register** for formal public comment.

To use the Website to view SECY–98–185, meeting transcripts, and letters from the Nuclear Energy Institute (NEI) and other commenters, select *dom lic Library* and then click on *NRC TECH CONF Text and Other Documents* to view the documents available in this library. Alternatively, you can direct your browser to go directly to: *http://techconf.llnl.gov/cgi-bin/library?source=*&library=dom lic lib&file=**.

The transcripts of previous meetings and letters from the NEI on chemical safety regulation and other issues are near the end of the library of documents and can be reached by scrolling down past all of the Standard Review Plan sections, which are listed individually.

Dated at Rockville, Maryland this 18th day of December, 1998.

For the Nuclear Regulatory Commission.

Elizabeth Q. Ten Eyck,

Director, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 98–34125 Filed 12–23–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASO–20]

Proposed Establishment of Class D Airspace; Lawrenceville, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class D airspace at Lawrenceville, GA. An automated weather observing system has been installed in the Gwinnett County-Briscoe Field Airport Traffic Control Tower, which transmits required weather observations. Therefore, the airport now meets the criteria for Class D airspace. The Class D airspace will consist of that airspace extending from the surface to and including 3,600 feet MSL within a 4.6-mile radius of the Lawrenceville/Gwinnett County-Briscoe Field Airport.

DATES: Comments must be received on or before January 25, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 98–ASO–20, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

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–ASO–20.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Available of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class D airspace at Lawrenceville, GA. An automated weather observing system has been installed in the Gwinnett County-Briscoe Field Airport Traffic Control Tower, which transmits the required weather observations. Therefore, the airport now meets the criteria for Class D airspace. Class D airspace designations for airports are published in Paragraph 5000 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class D 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. It, therefore, (1) is not a ''significant

regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO GA D Lawrenceville, GA [New]

Gwinnett County-Briscoe Field Airport
(Lat. 33°58′41″N, long. 83°57′45″W)

That airspace extending upward from the surface to and including 3,600 feet MSL within a 4.6-mile radius of the Lawrenceville/Gwinnett County-Briscoe Field Airport. This Class D airspace is effective during the specific days and times establish in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on December 16, 1998.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–34057 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–45]

Proposed Amendment to Class E Airspace; Selinsgrove, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Selinsgrove, PA. The development of a new Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) and the amendment of the VHF Omnidirectional Radio Range (VOR) or GPS–A SIAP at Penn Valley Airport, PA, have made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before January 25, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–45, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

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, 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–AEA–45.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the 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 both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Selinsgrove, PA. A GPS RWY 17 SIAP has been developed and the VOR or GPS–A SIAP has been amended for the Penn Valley Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate these SIAPs and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, 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 would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

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

* * * * *

AEA PA E5 Selinsgrove, PA [Revised]

Penn Valley Airport, Selinsgrove, PA
(Lat. 40°49′14″ N., long. 76°51′50″ W.)
Selinsgrove, VORTAC
(Lat. 40°47′27″ N., long. 76°53′03″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Penn Valley Airport and within 4 miles northwest and 5 miles southeast of the Selinsgrove VORTAC 207° radial, extending from the 8-mile radius 10 miles southwest of the VORTAC, excluding the portion that coincides with the Shamokin, PA, Class E airspace area.

* * * * *

Issued in Jamaica, New York, on December 15, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–34060 Filed 12–23–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–46]

Proposed Amendment to Class E Airspace; Linden, NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Linden, NJ. The development of new Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) at Linden Airport, NJ, has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before January 25, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–46, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

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, 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–AEA–46.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the 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 both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend to Class E airspace area at Linden, NJ. A GPS–A SIAP has been developed for Linden Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, 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 would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

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

* * * * *

AEA NJ E5 Linden, NJ [Revised]

Linden Airport, NJ
(Lat. 40°37′04″ N., long. 74°14′40″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Linden Airport and within a 11-mile radius of Linden Airport extending clockwise from a 200° bearing to a 244° bearing from the airport, excluding the portion that coincides with the New York, NY, and Old Bridge, NJ, Class E airspace areas.

* * * * *

Issued in Jamaica, New York, on December 15, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–34059 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASO–26]

Proposed Amendment of Class E Airspace; Griffin, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Griffin, GA. A Non-Directional Beacon (NDB) Runway (RWY) 32 Standard Instrument Approach Procedure (SIAP) has been developed for Griffin-Spalding County Airport. The out-bound course from the Griffin NDB for the NDB RWY 32 SIAP will be the 141 degree bearing. As a result, the length of the Class E airspace extension southeast of the NDB would be increased from 6.3 miles to 10.5 miles and the width of the airspace extension would be 5.2 miles.

DATES: Comments must be received on or before January 25, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 98–ASO–26, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

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–ASO–26.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at Griffin, GA. A NDB RWY 32 SIAP has been developed to the Griffin-Spalding County Airport. As a result, the length of the Class E airspace extension southeast of the NDB would be increased from 6.3 miles to 10.5 miles and the width of the airspace extension would be 5.2 miles. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, 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. 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 11035; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth

* * * * *

ASO GA E5 Griffin, GA [Reserved]

Griffin-Spalding County Airport
(Lat. 33°13′37″ N, long. 84°16′30″ W)
Griffin NDB
(Lat. 33°11′03″N, long. 84°13′39″W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 6.3 mile radius of Griffin-Spalding County Airport and within 2.6 miles from either side of the 141 degree bearing from the Griffin NDB, extending from the 6.3-mile radius to 10.5 miles southeast of the NDB.

* * * * *

Issued in College Park, Georgia, on December 17, 1998.

Wade Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–34169 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 422

[Regulations Nos. 4 and 22]

RIN 0960–AE84

Federal Old-Age, Survivors, and Disability Insurance; Employer Identification Numbers for State and Local Government Employment

AGENCY: Social Security Administration (SSA).

ACTION: Proposed rules.

SUMMARY: We propose to amend our current rules dealing with the special identification numbers we issue to States that submit modifications to their voluntary social security coverage group agreements. Under the proposed revision, we would issue special identification numbers only in cases where a modification extends coverage to periods prior to 1987. This revision will permit SSA to divert scarce SSA resources to other priority workloads without adversely affecting State recordkeeping operations.

DATES: To be sure that your comments are considered, we must receive them no later than February 22, 1999.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966–2830, sent by e-mail to regulations@ssa.gov, or delivered to the Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these hours by making arrangements with the contact person shown below. The electronic file of this document is available on the Internet at www.access.gpo.gov/nara at 6:00 a.m. on the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Robert Augustine, Legal Assistant, Office of Process and Innovation Management, 6401 Security Boulevard, Baltimore, MD 21235, (410) 966–5121 or TTY (410) 966–5609 for information about this rule. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION: Section 205(c)(2)(A) of the Social Security Act (the Act) requires SSA to maintain a record of the wages and self-employment income of each individual. The record is identified by the individual's social security number. Wages posted to an individual's record are based on wage reports submitted to SSA and the Internal Revenue Service (IRS) by employers. IRS regulations at 26 CFR 31.6011(a)–l require an employer to file returns required under the Federal Insurance Contributions Act (FICA) with IRS each year and IRS regulations at 26 CFR 31.6051–2 and 31.6091–1(d) require an employer to file wage reports with SSA each year. These requirements are also explained on wage reporting forms and in related instructions issued by SSA and IRS. To help account for these returns and reports, IRS assigns an employer identification number (EIN) to most employers. Additionally, SSA assigns a special identification number to each political subdivision of a State which is included in a modification to the State's coverage agreement under section 218 of the Act. These special identification numbers must currently be issued to any State that requests a modification of its coverage agreement, and to interstate instrumentalities if pre-1987 coverage is obtained. However, for SSA program purposes, such numbers are necessary only if the modification covers wages for years prior to 1987. In cases where the modification does not cover pre-1987 wages, the number is assigned solely for State bookkeeping purposes.

Explanation of Proposed Changes

We propose to modify paragraph (a) of § 404.1220 and paragraph (b) of § 422.112 of our regulations to indicate that we will issue a special identification number to each political subdivision of a State included in a modification to the State's voluntary coverage agreement under section 218 of the Act only if the modification extends coverage to periods prior to 1987. States will be free to assign their own identification numbers to employers covered under modifications that do not cover pre-1987 earnings, so that these proposed rules will have no adverse impact on State recordkeeping operations. This proposal will permit SSA to divert scarce resources to other priority workloads.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and have determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they are not subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed regulations will impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security Disability Insurance; 96.002 Social Security Retirement Insurance; 96.004 Social Security Survivors Insurance.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 422

Administrative practice and procedure, Freedom of information, Organization and functions (Government agencies), Social Security.

Dated: December 14, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set forth in the preamble, we propose to amend subpart M of Part 404 and subpart B of Part 422 of Chapter III of the Code of Federal Regulations as follows:

PART 404—FEDERAL OLD AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart M—[Amended]

1. The authority citation for subpart M of part 404 continues to read as follows:

Authority: Secs. 205, 210, 218 and 702(a)(5) of the Social Security Act (42 U.S.C. 405, 410, 418 and 902(a)(5)); sec. 12110, Pub. L. 99–272, 100 Stat. 287 (42 U.S.C. 418 note); sec. 9002, Pub. L. 99–509, 100 Stat. 1970.

2. Section 404.1220 is amended by revising paragraph (a) to read as follows:

§ 404.1220 Identification numbers.

(a) *State and local governments.* When a State submits a modification to its agreement under section 218 of the Act, which extends coverage to periods prior to 1987, SSA will assign a special identification number to each political subdivision included in that modification. SSA will send the State a Form SSA–214–CD, ''Notice of Identifying Number,'' to inform the State of the special identification number(s). The special number will be used for reporting the pre-1987 wages to SSA. The special number will also be assigned to an interstate instrumentality if pre-1987 coverage is obtained and SSA will send a Form SSA–214–CD to the interstate instrumentality to notify it of the number assigned.

* * * * *

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—[Amended]

3. The authority citation for subpart B of part 422 continues to read as follows:

Authority: Secs. 205, 232, 702(a)(5), 1131, and 1143 of the Social Security Act (42 U.S.C. 405, 432, 902(a)(5), 1320b–1, and 1320b–13).

4. Section 422.112 is amended by revising paragraph (b) to read as follows:

§ 422.112 Employer identification numbers.

* * * * *

(b) *State and local governments.* When a State submits a modification to its agreement under section 218 of the Act, which extends coverage to periods prior to 1987, SSA will assign a special identification number to each political subdivision included in that modification. SSA will send the State a Form SSA–214–CD, ''Notice of Identifying Number,'' to inform the State of the special identification number(s). The special number will be used for reporting the pre-1987 wages to SSA. The special number will also be assigned to an interstate instrumentality if pre-1987 coverage is obtained and SSA will send a Form SSA–214–CD to the interstate instrumentality to notify it of the number assigned.

[FR Doc. 98–34137 Filed 12–23–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 710, 712, and 713

[FHWA Docket No FHWA–98–4315]

RIN 2125–AE44

Right-of-way Program Administration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is proposing to amend its right-of-way regulations for federally assisted transportation programs. The FHWA requests comments on the proposed regulations and any other issues believed to be relevant to the administration of the real estate aspects of the Federal-aid highway program. The regulations are arranged to follow the same sequence as the development and implementation of a Federal-aid project to assist the public and State transportation department (STD) in locating regulations applicable to a specific point of interest. This proposal is intended to clarify the State-Federal partnership.

DATES: Comments in response to this NPRM must be received on or before March 24, 1999.

ADDRESSES: Submit written, signed comments to the docket number appearing at the top of this document. You must submit your comments to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. To receive notification of receipt of comments you must include a pre-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James E. Ware, (202) 366–2019, Office of Real Estate Services, HRE–20, or Mr. Reid Alsop, Office of Chief Counsel, HCC–31, (202) 366–1371. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please

follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA provides funds to the States and other organizations to reimburse them for the cost they have incurred in completing highways and other transportation related projects. Regulations dealing with reimbursement and management of right-of-way are contained in 23 CFR parts 710 through 713. The FHWA acknowledged that the regulations were outdated and in need of updating by publishing an advance notice of proposed rulemaking on November 6, 1995, at 60 FR 56004 under Docket No. 95–18 (transferred to U.S. DOT Docket Facility and scanned as FHWA Docket No. FHWA–97–2266).

Twenty comments were received: 2 from individuals, 2 from private groups or organizations, and 16 from State transportation agencies.

Based on the responses received, the FHWA concluded the right-of-way (ROW) regulations needed a comprehensive revision. During an initial review, the FHWA identified several parts of the regulations that were no longer needed.

As a first step in the comprehensive revision, the FHWA removed the obsolete and redundant parts by publishing an interim final rule on April 25, 1996, 61 FR 18246. This action removed from 23 CFR all of parts 720 and 740, and portions of parts 710 and 712.

This NPRM begins the second and final stage of the updating process. It seeks to further clarify and reduce Federal regulatory requirements and to place primary responsibility for a number of approval actions at the State level. If these regulatory changes are adopted, other parts of 23 CFR will be affected, and in developing the final rule, attention will be provided to conforming revisions as necessary. Such parts include: 23 CFR part 130, subpart D, Advance right-of-way revolving funds; 23 CFR part 480, Use and disposition of property previously acquired by States for withdrawn Interstate segments; and 23 CFR part 620, subpart B, Relinquishment of highway facilities.

This proposed rule substantially revises the order of regulatory materials and completes the process of removing redundant, outdated, and unnecessary content from the existing rule. A unified purpose and applicability statement along with definitions is included in Subpart A of the proposed rule. This consolidates material now found in several locations of the existing regulations.

The following table highlights the reordering of content and intended action for each subpart of the existing regulation:

Old section	New section
710 Subpart B, *State Highway Department Responsibilities*	710.201—State responsibilities.
710 Subpart C, *Reimbursement Provisions*	710.203—Funding and reimbursement.
712 Subpart B, *General Provisions and Project Procedures*	710 Subpart C, *Project Development* (See also Subpart E, *Property Acquisition Alternatives*)
712 Subpart D, *Administrative Settlements, Legal Settlements, and Court Awards*	Definitions retained in 710.105, Eligibility for reimbursement in 710.203. See also 49 CFR part 24.
712 Subpart E, *Federal Land Transfers and Direct Federal Acquisition*	710.601—Federal land transfer, and 710.602—Direct Federal acquisition.
712 Subpart F, *Functional Replacement of Real Property in Public Ownership*	710.509—Functional replacement.
712 Subpart G, *Right-of-way Revolving Fund*	Removed.
713 Subpart A, *Property Management*	710 Subpart D, *Real Property Management.*
713 Subpart B, *Management of Airspace*	710.405—Air rights.
713 Subpart C, *Disposal of Right-of-way*	710.407—Disposals.

Alternative methods to achieve program objectives have been explored in developing this NPRM. Specifically, efforts were made to reduce the level of Federal oversight, required recordkeeping, and mandated reporting. However, no change is made to the longstanding statutory requirement that States be suitably staffed and equipped to perform surface transportation functions as a prerequisite for Federal financial assistance. Nor have we changed the requirement for States to maintain State right-of-way operating manuals.

Many of the existing provisions were designed to provide project level oversight through a series of Federal monitoring steps and Federal approval actions. This NPRM would eliminate or reduce the level of Federal approval actions and would rely on State ROW operating manuals to guide the implementation of appropriate practices. The proposed regulation contains a provision for States to certify that their ROW manuals are current and conform to Federal requirements. Alternatives to this procedure were considered. One option would be to retain the current FHWA approval process. We solicit comments on these and other alternative approaches that would assure current and accurate ROW operating manuals.

State ROW manuals are considered to be a sound basis for implementing appropriate procedures at the State and local level. It is a State responsibility to maintain the manual and complete the various right-of-way phases in a manner which assures compliance with Federal law and regulations. The manual provides a documented reference for use by State ROW personnel, local public agencies, affected individuals, and the FHWA.

The FHWA believes that the need for project level surveillance has diminished since the era of the Interstate program when Federal funding was allocated on the basis of the cost to complete the system. Now States receive a fixed allocation of Federal funds based largely on formula. Hence, it is clearly in the States' best interest to use their Federal-aid funds prudently in all areas, including the acquisition, management, and disposition of real property. Since 1991, States have been accorded a wide array of eligible activities for Federal-aid, as well as greatly expanded discretion in the use of Federal-aid funds. This NPPM echoes the policy changes that have occurred throughout the rest of the Federal-aid program for surface transportation.

A major objective of the NPRM is to reorder the regulation so that it follows the same sequence as the development and implementation of a Federal-aid project. This rearrangement in chronological order should aid the public and State transportation departments in locating the parts of the regulation needed to answer their questions.

The proposed revisions clarify the State-Federal partnership and are not considered a major or significant change.

Provisions relating to the real estate issues contained in the Transportation Equity Act for the 21st Century (TEA-21) Pub.L. 105–178, 112 Stat. 107, have been incorporated in these proposed regulations, notably: (1) Allowing credit to the non-Federal share when a State or local government contributes land to a project; (2) allowing States to retain income from sale or lease of real property, as long as the income is used for title 23, U.S.C., purposes; and (3) eliminating the ROW revolving fund.

Current procedures require States to submit a right-of-way certification and availability statement as part of construction PS&E approval. The NPRM accommodates TEA–21 oversight standards by incorporating the need for submission and review of these documents into the oversight agreement required by revised 23 U.S.C. 106.

The NPRM would expand Federal reimbursement for right-of-way acquisition costs, beyond the current limit of ''generally compensable'' costs. Under current regulations, States and the Federal government must ascertain which types of acquisition costs are generally compensable across the nation and limit Federal reimbursement to those activities. This limits State flexibility, imposes a ''one size fits all'' philosophy, and creates administrative burdens for both States and the FHWA. State and Federal staff time devoted to isolating and extracting these costs does not add value to the overall transportation program accomplishments. Moreover, States should have greater discretion in determining the best use of formula-allocated Federal funds for acquisition purposes, as they now have in virtually every other aspect of projects funded with Federal-aid. This proposed rule provides that FHWA will reimburse the costs of acquisition and damages in accordance with State law.

Three variations of this reimbursement policy were considered in developing the NPRM. First, the present regulation could be retained as it currently exists. This would require that the FHWA and the States continue to exclude from Federal reimbursement elements of damage not generally compensable in eminent domain, such as circuity of travel, loss of business or goodwill, and those State required acquisition costs now specifically excluded, such as property owner attorney or appraisal fees. A second alternative could be to allow all valid property damage claims but to retain the limitation on reimbursement of cost elements related to the property acquisition as required by State law, such as property owner appraisal and attorney fees. Under this second alternative, State law, both statute and common, regarding compensability would be relied upon to determine if loss of business or goodwill, diversion of traffic, or other such value related damages are eligible for reimbursement. A third approach would retain the generally compensable standard relating to eligible property damage claims, but permit reimbursement of all usual costs and disbursements associated with property acquisition as required by State law. Comments are solicited on these alternatives or other alternatives to establish the appropriate scope of Federal-aid participation in acquisition costs.

The NPRM includes a TEA–21 provision that the Federal share of proceeds from the sale or lease of real estate originally acquired as part of a Federal-aid project (not limited to airspace) could be retained by the State, if used for projects that would be eligible for funding under title 23, U.S.C. The NPRM would require, with certain exceptions, that the State charge fair market value for the sale or lease of real property if the property was acquired with Federal assistance made available from the highway trust fund. This reflects the provisions of 23 U.S.C. 156 as amended by section 1303 of TEA–21. This revision would reduce administrative burdens on States and the FHWA and give States and local governments greater flexibility in use of funds, while also protecting Federal interests by ensuring funds are used on purposes permitted under title 23, U.S.C. This procedure applies to all disposals, including surplus property from withdrawn Interstate projects, processed subsequent to June 9, 1998, the effective date of TEA–21. Under the rule as proposed, income from all property uses and dispositions would be treated in a uniform manner.

The NPRM also includes a TEA–21 provision that the value of property acquired by States or local governments before project agreement could be credited toward the State share of project cost, as long as certain conditions, including those relating to the Environmental process, have been met. Prior to TEA–21, private property donated to a Federal project could be credited to the non-Federal share, but no such credit was permitted for publicly owned property. The proposed regulation fulfills TEA–21 statutory provisions by allowing the State credit toward the non-Federal share of the cost of a project, and mandating the credit in the case of locally-owned property. The conditions which must be met to allow the credit would include careful observance of the environmental assessment process.

The NPRM contains separate sections for property donations by private parties and contributions by State or local government to clearly distinguish between these distinct actions, both of which can generate credit for the State or local matching share of a project.

The NPRM continues to specify procedures the States would be required to follow in use of airspace on the Interstate and other National Highway System (NHS) facilities which have received funding under title 23, U.S.C., in any way. However, these airspace requirements would no longer be mandated for non-NHS highways.

The NPRM relocates a significant amount of detail relating to the management of airspace. The detailed provisions for airspace, particularly the detailed geometric requirements for the use of property over or under a highway, would be developed and updated through an official technical advisory, which would be referenced in the final rule. Your comments are solicited regarding the possible use of a technical advisory for these requirements rather than the detailed provisions included in current regulations. An advantage of a technical advisory is that it would be easier to update. Your comments are also solicited regarding additional elements which should be included in either an advisory or in a modified regulation.

The NPRM eliminates the future use of the right-of-way revolving fund. The revolving fund was a pool of money that could be used by States to acquire right-of-way in advance of the time that State funding was available. The revolving fund was eliminated by TEA–21. The only remaining provisions needed for closing out this fund would deal with repayments which will be based on the transition provisions included in sec. 1211(e)(2) of TEA–21.

The NPRM provides that property disposals or any other use of right-of-way along the Interstate requires the State to obtain FHWA concurrence, but this would no longer be required for

non-Interstate highways. Instead, the State ROW manual would specify procedures for the leasing, maintenance and disposal of property rights, including access control.

The NPRM clarifies that where property is to be used for environmental mitigation or environmental banking the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Pub.L. 91–646, 84 Stat. 1894, as amended) apply in the acquisition of the property.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination using the docket number appearing at the top of this document in the docket room at the above address or via the electronic addresses provided above. The FHWA will file comments received after the comment closing date in the docket and will consider late comments to the extent practicable. The FHWA may, however, issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information becoming available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this proposed action would not constitute a significant regulatory action within the meaning of Executive Order 12866, nor would it be a significant regulatory action within the Department of Transportation's regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The FHWA does not consider this proposed action to be significant because these regulations would simplify, clarify, and reorganize existing requirements. The proposed procedures would simply implement current law and eliminate constraints on FHWA reimbursement for certain right-of-way expenditures when those expenditures are made under provisions within State law. Neither the individual nor the cumulative impact of this action would be significant because this action would not alter the funding levels available to the States for Federal or federally assisted programs covered by TEA–21.

Those primarily impacted by the proposed changes have received briefings of the revisions to be proposed at the last two annual Right-of-Way National Conferences sponsored by the American Association of State Highway Transportation Officials (AASHTO). During the most recent conference in April 1998, the FHWA briefed State right-of-way staffs on the changes being contemplated and asked them to comment when the NPRM is issued.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agency has evaluated the effects of this proposed rule on small entities and anticipates that this action would not have a significant economic impact on a substantial number of small entities. This proposed action would merely update and clarify existing procedures. The NPRM would also reduce Federal regulatory requirements and allow State procedures to be utilized. Local entities could also adopt State procedures for advancing Federal-aid projects under the State transportation plan. We specifically invite comments on the projected economic impact of this proposal, and will actively consider such information before completing our Regulatory Flexibility Act analysis when adopting final rules.

Environmental Impacts

The FHWA has also analyzed this proposed action for the purpose of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and anticipates that this action would not have any effect on the quality of the human and natural environment.

Executive Order 12612 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action would not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. This rule would reduce the level of Federal approval actions by placing greater responsibility at the State or local level. Throughout the proposed regulation there is an effort to keep administrative burdens to a minimum.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205 Highway planning and construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Unfunded Mandates Reform Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48), the FHWA must prepare a budgetary impact statement on any proposal or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal government of $100 million or more. The FHWA has determined that the proposed revisions contained in this NPRM would not result in estimated costs of $100 million or more to State, local, or tribal governments. This proposed action would simplify and reduce existing requirements. Accordingly no additional costs to State, local, or tribal governments are anticipated as a result of the proposed action.

Paperwork Reduction Act

This proposal contains no new collection of information requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. This NPRM would reduce the level of recordkeeping for the disposal of properties and would permit States to retain income for use and disposals of property thereby eliminating the administrative burden of crediting funds to Federal projects.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

23 CFR Part 710

Grant programs—transportation, Highways and roads, Real property acquisition, Reporting and recordkeeping requirements, Rights-of-way.

23 CFR Parts 712 and 713

Grant programs—transportation, Highways and roads, Reporting and recordkeeping requirements, Rights-of-way.

In consideration of the foregoing, and under the authority of 23 U.S.C. 315, the FHWA proposes to amend title 23, Code of Federal Regulations, chapter I, as set forth below.

1. Part 710 is revised to read as follows:

PART 710—RIGHT-OF-WAY AND REAL ESTATE

Subpart A—General

Subpart B—Program Administration

Subpart C—Project Development

Subpart D—Real Property Management

Subpart E—Property Acquisition Alternatives

Subpart F—Federal Assistance Programs

Authority: 23 U.S.C. 101(a), 107, 108, 111, 114, 133, 142(f), 145, 156, 204, 210, 308, 315, 317, and 323; 42 U.S.C. 2000d *et seq.*, 4633, 4651–4655; 49 CFR 1.48(b) and (cc), 18.31, and parts 21 and 24; 23 CFR 1.32.

Subpart A—General

§ 710.101 Purpose.

The primary purpose of these requirements is to ensure the prudent use of Federal funds under title 23, U.S.C., in the acquisition, management, and disposal of real property. In addition to the requirements of this part, other real property related provisions apply and are found at 49 CFR part 24.

§ 710.103 Applicability.

This part applies whenever Federal assistance under title 23, U.S.C., is used to acquire real property, unless stated otherwise.

§ 710.105 Definitions.

(a) Terms defined in 49 CFR part 24 and 23 CFR part 1 have the same meaning when used in this part, unless otherwise defined in paragraph (b) of this section.

(b) The following terms when used in this part have the following meaning:

Access rights. The right of ingress and egress from a property that abuts a street or highway.

Acquiring agency. A State agency, other entity, or person acquiring real property for title 23, U.S.C., purposes.

Acquisition. Activities to obtain an interest in, and possession of, real property.

Air rights. Real property interests defined by agreement, and conveyed by deed, lease, or permit for the use of airspace.

Airspace. That space located above and/or below a highway or other transportation facility's established grade line, lying within the horizontal limits of the approved right-of-way boundaries.

Damages. The loss in value attributable to remainder property due to severance or consequential damages, as limited by State law, that arise when only part of an owner's property is acquired.

Disposal. The sale of real property or rights therein, including access or air rights, when no longer needed for highway right-of-way or other uses eligible for funding under title 23, U.S.C.

Donation. The voluntary transfer of privately owned real property for the benefit of a public transportation project without compensation or with compensation at less than fair market value.

Early acquisition. Acquisition of real property by State or local governments in advance of Federal authorization or agreement.

Easement. An interest in real property that conveys a right to use a portion of an owner's property or a portion of an owner's rights in the property.

NHS. The National Highway System as defined in 23 U.S.C. 103(b).

Oversight agreement. The project approval and oversight agreement required by 23 U.S.C. 106(c)(3).

Real property. Land and any improvements thereto, including but not limited to, fee interests, easements, air or access rights, and the rights to control use, leasehold, and leased fee interests.

Relinquishment. The conveyance of a portion of a highway right-of-way or facility by a State highway department to another government agency for continued transportation use. (See 23 CFR part 620, subpart B.)

Right-of-way. Real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23, U.S.C.

Settlement. The result of negotiations based on fair market value in which the amount of just compensation is agreed upon for the purchase of real property or an interest therein.

(1) An *administrative settlement* is a settlement reached prior to filing a condemnation proceeding based on value related evidence, administrative consideration, or other factors approved by an authorized agency official.

(2) A *legal settlement* is a settlement reached by a responsible State legal representative after filing a condemnation proceeding, including stipulated settlements approved by the court in which the condemnation action had been filed.

(3) A *court settlement* or *court award* is any decision by a court that follows a contested trial or hearing before a jury, commission, judge, or other legal entity having the authority to establish the amount of compensation for a taking under the laws of eminent domain.

State agency. A department, agency, or instrumentality of a State or of a political subdivision of a State; any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States; or any person who has the authority to acquire property by eminent domain under State law.

State transportation department (STD). The State highway department, transportation department, or other State transportation agency or commission to which title 23, U.S.C., funds are apportioned.

Uneconomic Remnant. A remainder property which the acquiring agency has determined has little or no utility or value to the owner.

Uniform Act. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et seq.*), and the implementing regulations at 49 CFR part 24.

Subpart B—Program Administration

§ 710.201 State responsibilities.

(a) *Organization.* Each STD shall be adequately staffed, equipped, and organized to discharge its real property-related responsibilities.

(b) *Program oversight.* The STD shall have overall responsibility for the acquisition, management, and disposal of real property on Federal-aid projects. This responsibility shall include assuring that acquisitions and disposals by a State agency are made in compliance with legal requirements of State and Federal laws and regulations.

(c) *Right-of-Way (ROW) Operations Manual.* Each STD shall maintain a manual describing its right-of-way organization, policies, and procedures.

The manual shall describe functions and procedures for all phases of the real estate program, including appraisal and appraisal review, negotiation and eminent domain, property management, and relocation assistance. The manual shall also specify procedures to prevent conflict of interest and avoid fraud, waste, and abuse. The manual shall be in sufficient detail and depth to guide State employees and others involved in acquiring and managing real property.

(1) The STD shall prepare and make available to FHWA an up-to-date Right-of-Way Operations Manual by no later than September 30, 2000.

(2) In October 2000, and every three years thereafter, the chief administrative officer of the STD shall certify to the FHWA that the current ROW operations manual conforms to existing practices and contains necessary procedures to ensure compliance with Federal and State real estate law and regulation.

(3) The STD shall update the manual periodically to reflect changes in operations and make the updated materials available to the FHWA.

(d) *Compliance responsibility.* The STD is responsible for complying with current FHWA requirements whether or not its manual reflects those requirements.

(e) *Adequacy of real property interest.* The real property interest acquired for all Federal-aid projects funded pursuant to title 23, U.S.C., shall be adequate for the construction, operation, and maintenance of the resulting facility and for the protection of both the facility and the traveling public.

(f) *Recordkeeping.* The acquiring agency shall maintain adequate records of its acquisition and property management activities.

(1) Acquisition records, including records related to owner or tenant displacements, and property inventories of improvements acquired shall be in sufficient detail to demonstrate compliance with this part and 49 CFR part 24. These records shall be retained at least 3 years from either:

(i) The date the State receives Federal reimbursement of the final payment made to each owner of a property and to each person displaced from a property; or

(ii) The date a credit toward the Federal share of a project is approved based on early acquisition activities of the State.

(2) Property management records shall include inventories of real property considered excess to project needs, all authorized uses of airspace, and other leases or agreements for use of real property managed by the STD.

(g) *Procurement.* Contracting for all activities required in support of State right-of-way programs through use of private consultants and other services shall conform to 49 CFR 18.36.

(h) *Use of other public land acquisition organizations or private consultants.* The STD may enter into written agreements with other State, county, municipal, or local public land acquisition organizations or with private consultants to carry out its authorities under paragraph (b) of this section. Such organizations, firms, or individuals must comply with the policies and practices of the STD. The STD shall monitor any such real property acquisition activities to assure compliance with State and Federal law and requirements and is responsible for informing such organizations of all such requirements and for imposing sanctions in cases of material non-compliance.

(i) *Approval actions.* Except for the Interstate system, the STD and the FHWA will agree on the scope of property related oversight and approval actions that the FHWA will be responsible for under this part. The content of the most recent Oversight Agreement shall be reflected in the State Right-of-Way Operations Manual. The Oversight Agreement, and thus the Manual, will indicate for which non-Interstate Federal-aid project submission of materials for review and approval are required.

(j) *Approval of just compensation.* The amount determined to be just compensation shall be approved by a responsible official of the acquiring agency.

(k) *Description of acquisition process.* The STD shall provide persons affected by projects or acquisitions advanced under title 23, U.S.C., with a written description of its real property acquisition process under State law and of the owner's rights, privileges, and obligations. The description shall be written in clear, non-technical language and, where appropriate, be available in languages other than English.

§ 710.203 Funding and reimbursement.

(a) *General conditions.* The following conditions are a prerequisite to Federal participation in the costs of acquiring real property:

(1) The project for which the real property is acquired is included in an approved Statewide Transportation Improvement Program (STIP);

(2) The State has executed a project agreement;

(3) Preliminary acquisition activities, including a title search and preliminary property map preparation necessary for the completion of the environmental process, can be advanced under preliminary engineering prior to National Environmental Policy Act (NEPA) clearance, while other work involving contact with affected property owners must be deferred until after NEPA approval, except as provided in § 710.503 for protective buying and hardship acquisition; and

(4) Costs have been incurred in conformance with State and Federal law and requirements.

(b) *Eligible costs.* Federal participation in real property costs is limited to the costs of property incorporated into the final project, unless provided otherwise. Participation is provided for:

(1) *Real property acquisition.* Usual costs and disbursements associated with real property acquisition required under the laws of the State, including:

(i) The cost of contracting for private acquisition services or the cost associated with the use of local public agencies.

(ii) The cost of pre-acquisition activities such as appraisal, appraisal review, cost estimates, relocation planning, right-of-way plan preparation, title work, and similar necessary right-of-way related work.

(iii) The cost to acquire real property, including incidental expenses.

(iv) The cost of administrative settlements in accordance with 49 CFR 24.102(i), legal settlements, court awards, and costs incidental to the condemnation process.

(2) *Relocation assistance and payments.* Payments made incidental to and associated with the displacement from acquired property under 49 CFR part 24.

(3) *Damages.* The cost of severance and/or consequential damages to remaining real property resulting from a partial acquisition of real property for a project based on elements compensable under applicable State law.

(4) *Property management.* The net cost of managing real property prior to and during construction to provide for maintenance, protection, and the clearance and disposal of improvements until final project acceptance.

(5) *Payroll-related expenses and technical guidance.* Salary and related expenses of employees of an acquiring agency are eligible costs in accordance with OMB Circular A–87.[1] This includes State costs incurred for managing or providing technical

[1] OMB circulars may be obtained from the EOP Publications Office, 725 17th Street, NW., Room 2200, Washington, DC 20503 and at OMB's Internet home page at http://www.whitehouse.gov/WH/EOP/omb.

guidance, consultation or oversight on projects where right-of-way services are performed by a political subdivision or others.

(6) *Property not incorporated into a transportation project.* The cost of property not incorporated into a transportation project may be eligible for reimbursement in the following circumstances:

(i) *General.* Costs for construction material sites, property acquisitions to a logical boundary, or for eligible transportation enhancement, environmental mitigation, or environmental banking activities.

(ii) *Easements not incorporated into the right-of-way.* The cost of acquiring easements outside the right-of-way for permanent or temporary use.

(7) *Uneconomic remnants.* The cost of uneconomic remnants purchased in connection with the acquisition of a partial taking for the project as required by the Uniform Act.

(8) *Access rights.* Payment for full or partial control of access on an existing highway (i.e., one not on a new location), based on elements compensable under applicable State law. Participation does not depend on another real property interest being acquired or on further construction of the highway facility.

(9) *Utility and railroad property.* (i) The cost to replace operating real property owned by a displaced utility or railroad and conveyed to an STD for a highway project, as provided in 23 CFR part 140, Subpart I, Reimbursement for Railroad Work, and 23 CFR part 645, Subpart A, Utility Relocations, Adjustments and Reimbursements, and 23 CFR part 646, Subpart B, Railroad-Highway Projects.

(ii) Participation in the cost of acquiring non-operating utility or railroad real property shall be in the same manner as other privately owned property.

(c) *Withholding payment.* The FHWA may withhold payment under the conditions in 23 CFR 1.36 where the State fails to comply with Federal law or regulation, State law, or under circumstances of waste, fraud, and abuse.

Subpart C—Project Development

§ 710.301 General.

The project development process typically follows a sequence of actions and approvals in order to qualify for funding. The key steps in this process are provided in this subpart.

§ 710.303 Planning.

State and local governments conduct metropolitan and statewide planning to develop coordinated, financially constrained system plans to meet transportation needs for local and statewide systems, under provisions contained in 23 CFR part 450. Projects must be included in an approved State Transportation Improvement Program (STIP) in order to be eligible for Federal-aid funding.

§ 710.305 Environmental analysis.

The NEPA process as described in 23 CFR part 771 normally must be conducted and concluded with a record of decision (ROD), FONSI, or CE determination before Federal funds can be placed under agreement for acquisition of right-of-way. Where applicable, a State also must complete Clean Air Act project level conformity analysis. At the time of processing an environmental document, a State may request reimbursement of costs incurred for early acquisition, provided conditions prescribed in 23 U.S.C. 108(c) and § 710.501, are satisfied.

§ 710.307 Project agreement.

As a condition of Federal-aid, the STD shall obtain FHWA authorization in writing or electronically before proceeding with any real property acquisitions, including hardship acquisition and protective buying (see § 710.503). The STD must prepare a project agreement in accordance with 23 CFR part 630, subpart C. The agreement shall be based on an acceptable estimate for the cost of acquisition. On projects where the initial project agreement was executed after June 9, 1998, a State may request credit toward the non-Federal share, for early acquisitions, donations, or other contributions applied to the project provided conditions in 23 U.S.C. 323 and § 710.501 are satisfied.

§ 710.309 Acquisition.

The process of acquiring real property includes appraisal, appraisal review, establishing just compensation, negotiations, administrative and legal settlements, and condemnation. The State shall conduct acquisition and related relocation activities in accordance with 49 CFR Part 24.

§ 710.311 Construction advertising.

The State must manage real property acquired for a project until it is required for construction. Clearance of improvements can be scheduled during the acquisition phase of the project using sale/removal agreements, separate demolition contracts, or be included as a work item in the construction contract. On Interstate projects, prior to advertising for construction, the State shall develop ROW availability statements and certifications related to project acquisitions as required by 23 CFR 635.309. For non-Interstate projects, the Oversight Agreement must specify responsibility for the review and approval of the ROW availability statements and certifications. Generally, for non-NHS projects, the State has full responsibility for determining that right-of-way is available for construction.

Subpart D—Real Property Management

§ 710.401 General.

This subpart describes the acquiring agency's responsibilities to control the use of real property required for a project in which Federal funds participated in any phase of the project. Prior to allowing any change in access control or other use or occupancy of acquired property along the Interstate, the STD shall secure an approval from the FHWA for such change or use. The STD shall specify in the State's ROW Operations Manual, procedures for the rental, leasing, maintenance, and disposal of real property acquired with title 23, U.S.C., funds. The State shall assure that local agencies follow the State's approved procedures, or the local agencies own procedures if approved for use by the STD.

§ 710.403 Management.

(a) The STD must assure that all real property within the boundaries of a federally-aided facility is devoted exclusively to the purposes of that facility and is preserved free of all other public or private alternative uses, unless such additional uses are permitted by Federal regulation or the FHWA. An alternative use must be consistent with the continued operation, maintenance, and safety of the facility, and such use shall not result in the exposure of the facility's users or others to hazards.

(b) The STD shall specify procedures in the State manual for determining when a real property interest is no longer needed. These procedures must provide for coordination among relevant STD organizational units, including maintenance, safety, design, planning, right-of-way, environment, access management, and traffic operations.

(c) The STD shall evaluate the environmental effects of disposal and leasing actions requiring FHWA approval as provided in 23 CFR part 771.

(d) Acquiring agencies shall charge current fair market value or rent for the use or disposal of real property interests, including access control, if those real property interests were obtained with title 23, U.S.C., funding. Exceptions to the requirement for

charging fair market value may be approved in the following situations:

(1) With FHWA approval, when the STD clearly shows that an exception is in the public interest, for: social, environmental, or economic purposes; non-proprietary governmental use; or uses under 23 U.S.C. 142(f), Public Transportation. The STD shall submit requests for such exceptions to the FHWA in writing.

(2) Use by public utilities is covered under separate regulations (23 CFR part 645).

(3) Railroads may be accommodated in accordance with 23 CFR part 646.

(4) Bikeways and pedestrian walkways may be accommodated in accordance with 23 CFR part 652.

(e) The Federal share of net income from the sale or lease of excess real property shall be used by the STD for activities eligible for funding under title 23, U.S.C.

§ 710.405 Air rights on the NHS.

(a) The FHWA policies relating to management of airspace on the NHS for non-highway purposes are included in this section. This subpart applies to the Interstate and to other National Highway System (NHS) facilities which receive title 23, U.S.C., assistance in any way. This section does not apply to non-NHS highways; to railroads and public utilities which cross or otherwise occupy Federal-aid highway rights-of-way, nor to relocations of railroads or utilities for which reimbursement is claimed under subpart H and E of 23 CFR part 140; and bikeways and pedestrian walkways as covered in 23 CFR part 652.

(b) A STD may grant rights for temporary or permanent occupancy or use of NHS airspace if the STD has acquired sufficient legal right, title, and interest in the right-of-way of a federally assisted highway to permit the use of certain airspace for non-highway purposes; and where such airspace is not required presently or in the foreseeable future for the safe and proper operation and maintenance of the highway facility. The STD must obtain prior FHWA approval, except for paragraph (c) of this section.

(c) A State Agency may make lands and rights-of-way available without charge to a publicly owned mass transit authority for public transit purposes whenever the public interest will be served, and where this can be accomplished without impairing automotive safety or future highway improvements.

(d) An individual, company, organization, or public agency desiring to use NHS airspace shall submit a written request to the STD. If the STD recommends approval it shall forward an application together with its recommendation and any necessary supplemental information including the proposed airspace agreement to the FHWA. The submission shall affirmatively provide for adherence to all policy requirements contained in this subpart and conform to the provisions in the FHWA's Technical Advisory on Airspace Utilization.[2]

§ 710.407 Leasing.

(a) Leasing of real property acquired with title 23, U.S.C., funds shall be covered by an agreement between the STD and lessee which contains provisions to insure the safety and integrity of the federally funded facility. It shall also include provisions governing lease revocation, removal of improvements at no cost to the FHWA, adequate insurance to hold the State and the FHWA harmless, nondiscrimination, access by the STD and the FHWA for inspection, maintenance, and reconstruction of the facility.

(b) Where a proposed use requires changes in the existing transportation facility, such changes shall be provided without cost to Federal funds unless otherwise specifically agreed to by the STD and the FHWA.

(c) Proposed uses of real property shall conform to the current design standards and safety criteria of the Federal Highway Administration for the functional classification of the highway facility in which the property is located.

§ 710.409 Disposals.

(a) Real property interests determined to be excess to transportation needs may be sold or conveyed to a public entity or to a private party in accordance with § 710.403(d).

(b) Federal, State, and local agencies shall be afforded the opportunity to acquire real property interests considered for disposal when such real property interests have potential use for parks, conservation, recreation, or related purposes, and when such a transfer is allowed by State law. When this potential exists, the STD shall notify the appropriate resource agencies of its intentions to dispose of the real property interests.

(c) Real property interests may be retained to restore, preserve, or improve the scenic beauty and environmental quality adjacent to the transportation facility.

[2] This FHWA directive is available for public inspection and copying as prescribed at 49 CFR part 7.

(d) Where the transfer of properties to other agencies at less than fair market value for continued public use is clearly justified as in the public interest and approved by FHWA, the deed shall provide for reversion of the property for failure to continue public ownership and use. Disposal actions which do not generate fair market value require a public interest determination and FHWA approval, consistent with 23 CFR 710.403(c).

Subpart E—Property Acquisition Alternatives

§ 710.501 Early acquisition.

(a) *Real property acquisition.* The State may initiate acquisition of real property at any time it has the legal authority to do so based on program or project considerations. The State may undertake early acquisition for corridor preservation, access management, or other purposes.

(b) *Eligible costs.* Acquisition costs incurred by a State agency prior to executing a project agreement with FHWA are not eligible for Federal-aid reimbursement. However, such costs may become eligible for reimbursement or use as a credit towards the State's share of a Federal-aid project if the following conditions are met:

(1) The property was lawfully obtained by the State;

(2) The property was not park land described in 23 U.S.C. 138;

(3) The property was acquired in accordance with the provisions of 49 CFR part 24;

(4) The requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) had been complied with;

(5) The State determined and the FHWA concurs that the action taken did not influence the environmental assessment for the project, including:

(i) The decision on need to construct the project;

(ii) The consideration of alternatives; and

(iii) The selection of the design or location; and

(6) The property will be incorporated into a Federal-aid project.

(c) *Reimbursement.* In addition to meeting all provisions in paragraph (b) of this section, the FHWA approval for reimbursement for early acquisition costs, including costs associated with displacement of owners or tenants, requires the STD to demonstrate that:

(1) Prior to acquisition, the STD made the certifications and determinations required by 23 U.S.C. 108(c)(2)(C) and (D); and

(2) The STD obtained concurrence from the Environmental Protection

Agency in the findings made under paragraph (b)(5) of this section regarding the NEPA process.

(d) *Credit.* In addition to meeting all provisions in paragraph (b) of this section, for original project agreements executed on or after June 9, 1998, the State can apply for a credit toward the State's non-Federal share of project costs for real property required by the project.

§ 710.503 Protective buying and hardship acquisition.

(a) *General conditions.* Prior to the STD obtaining final environmental approval, the STD may request FHWA agreement to provide reimbursement for advance acquisition of a particular parcel or a limited number of parcels, to prevent imminent development and increased costs on the preferred location (Protective Buying) or to alleviate hardship to a property owner or owners on the preferred location (Hardship Acquisition), provided the following conditions are met:

(1) The project is included in the currently approved STIP;

(2) The STD has complied with applicable public involvement requirements in 23 CFR parts 450 and 771;

(3) A section 4(f) determination has been completed for any property subject to the provisions of 49 U.S.C. 303, and 23 U.S.C. 138;

(4) Procedures of the Advisory Council on Historic Preservation are completed for properties subject to 16 U.S.C. 470(f) (historic properties).

(b) *Protective buying.* The STD must clearly demonstrate that development of the property is imminent and such development would create extreme adverse impacts on future transportation use. The FHWA will not approve advance acquisition proposed solely for reducing project cost.

(c) *Hardship acquisitions.* The STD must accept and concur in a request for a hardship acquisition based on a property owners' written submission that contains:

(1) Support for the hardship acquisition by providing justification on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others; and

(2) Documents an inability to sell the property because of the impending project, at fair market value, within a time period that is typical for properties not impacted by the impending project.

(d) *Environmental decisions.* Acquisition of property under this section shall not influence the environmental assessment of a project, including the decision relative to the need to construct the project or the selection of a specific location.

§ 710.505 Real property donations.

(a) *Donations of property being acquired.* A non-governmental owner whose real property is required for a Federal-aid project may donate the property to the acquiring agency. Prior to accepting the property, the owner must be informed by the agency of his/her right to receive just compensation for the property. The owner shall also be informed of his/her right to an appraisal of the property by a qualified appraiser, unless the Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the fair market value is estimated at no more than $2500 or the State appraisal waiver limit approved by the FHWA, whichever is greater. All donations of property received prior to the approval of the NEPA document must meet environmental requirements as specified in 23 U.S.C. 323(d).

(b) *Credit for donations.* Donations of real property may be credited to the State's matching share of the project. Credit to the State's matching share for donated property shall be based on fair market value established on the earlier of the date on which the donation becomes effective or the date on which equitable title to the property vests in the State. The fair market value shall not include increases or decreases in value caused by the project. Donations may be made at anytime during the development of a project. The STD shall develop sufficient documentation to indicate compliance with paragraph (a) of this section and to support the amount of credit applied. The total credit cannot exceed the State's pro-rata share under the project agreement to which it is applied.

(c) *Donations in exchange for construction features or services.* A property owner may donate property in exchange for construction features or services. The value of the donation is limited to the fair market value of property donated less the cost of the construction features or services. If the value of the donated property exceeds the cost of the construction features or services, the difference may be eligible for a credit to the State's share of project costs.

§ 710.507 State and local contributions.

(a) *General.* Real property owned by State and local governments incorporated within a federally funded project can be used as a credit toward the State matching share of total project cost. A credit cannot exceed the State's matching share required by the project agreement.

(b) *Effective date.* Credits can be applied to projects where the initial project agreement is executed after June 9, 1998.

(c) *Exemptions.* Credits are not available for lands acquired with any form of Federal financial assistance, or for lands already incorporated and used for transportation purposes.

(d) *State contributions.* Real property acquired with State funds and required for federally-assisted projects may support a credit toward the non-Federal share of project costs. The STD must prepare documentation supporting all credits including:

(1) A certification it met the requirements in § 710.501; and

(2) Justification of the value of credit applied. Acquisition costs incurred by the State to acquire title can be used as justification for the value of the real property.

(e) *Credit for local government contributions.* A contribution by a unit of local government of real property in connection with a project eligible for assistance under this title shall be credited against the State share of the project at fair market value of the real property. The STD shall assure that provisions in § 710.401 have been complied with, and that documentation justifies the amount of the credit.

§ 710.509 Functional replacement of real property in public ownership.

(a) *General.* When publicly owned real property, including land and/or facilities, is to be acquired for a Federal-aid highway project, in lieu of paying the fair market value for the real property, the State may provide compensation by functionally replacing the publicly owned real property with another facility which will provide equivalent utility.

(b) *Federal participation.* Federal-aid funds may participate in functional replacement costs only if:

(1) Functional replacement is permitted under State law and the STD elects to provide it.

(2) The property in question is in public ownership and use.

(3) The replacement facility will be in public ownership and will continue the public use function of the acquired facility.

(4) The State has informed the agency owning the property of its estimate of just compensation based on an appraisal of fair market value and of the option to choose either just compensation or functional replacement.

(5) The FHWA concurs in the STD determination that functional replacement is in the public interest.

(6) The real property is not owned by a utility or railroad.

(c) *Federal land transfers.* Use of this section for functional replacement of real property in Federal ownership shall be in accordance with Federal land transfer provisions in subpart F of this part.

(d) *Limits upon participation.* Federal-aid participation in the costs of functional replacement are limited to costs which are actually incurred in the replacement of the acquired land and/or facility and are:

(1) Costs for facilities which do not represent increases in capacity or betterments, except for those necessary to replace utilities, to meet legal, regulatory, or similar requirements, or to meet reasonable prevailing standards; and

(2) Costs for land to provide a site for the replacement facility.

(e) *Procedures.* When a State determines that payments providing for functional replacement of public facilities are allowable under State law, the State will incorporate within the State's ROW operating manual full procedures covering review and oversight that will be applied to such cases.

§ 710.511 Transportation enhancements.

(a) *General.* Section 133(b)(8) of title 23, U.S.C., authorizes the expenditure of surface transportation funds for transportation enhancement activities (TEA). Transportation enhancement activities which involve the acquisition, management, and disposition of real property, and the relocation of families, individuals, and businesses, are governed by the general requirements of the Federal-aid program found in titles 23 and 49 of the Code of Federal Regulations (CFR), except as specified in paragraph (b)(3) of this section.

(b) *Requirements.* (1) Acquisitions and displacements for TEA are subject to the Uniform Act.

(2) Except as provided in paragraphs (b)(3) and (b)(4) of this section, entities acquiring real property for TEA who lack the power of eminent domain may comply with the Uniform Act by meeting the limited requirements under 49 CFR 24.101(a)(2).

(3) The requirements of the Uniform Act do not apply when real property acquired for a TEA was purchased from a third party by a qualified conservation organization, and—

(i) The conservation organization is not acting on behalf of the agency receiving TEA or other Federal-aid funds; and

(ii) There was no Federal approval of property acquisition prior to the involvement of the conservation organization. (''Federal approval of property acquisition'' means the date of the approval of the environmental document or project authorization/agreement, whichever is earlier. ''Involvement of the conservation organization'' means the date the organization makes a legally binding offer to acquire a real property interest (including an option to purchase) in the property.)

(4) When a qualified conservation organization acquires real property for a project receiving Federal-aid highway funds on behalf of an agency with eminent domain authority, the requirements of the Uniform Act apply as if the agency had acquired the property itself.

(5) When, subsequent to Federal approval of property acquisition, a qualified conservation organization acquires real property for a project receiving Federal-aid highway funds, and there will be no use or recourse to the power of eminent domain, the limited requirements of 49 CFR 24.101(a)(2) apply.

(c) *Property management.* Real property acquired with TEA funds shall be managed in accordance with the property management requirements provided in subpart D of this part. Any use of the property for purposes other than that for which the TEA funds were provided must be consistent with the continuation of the original use. When the original use of the real property is converted by sale or lease to another use inconsistent with the original use the STD shall assure that the fair market value or rent is charged and the proceeds reapplied to title 23 purposes.

§ 710.513 Environmental mitigation.

(a) The acquisition and maintenance of land for wetlands mitigation, wetlands banking, natural habitat, or other appropriate environmental mitigation is an eligible cost under the Federal-aid program. FHWA participation in wetland mitigation sites and other mitigation banks is governed by 23 U.S.C. 103(b)(6)(M), 133(b)(11), and 23 CFR part 777.

(b) Environmental acquisitions or displacements by both public agencies and private parties are covered by the Uniform Act when they are for or related to (or the result of) a program or project undertaken by a Federal agency or one that receives Federal financial assistance. This includes real property acquired for a wetland bank, or other environmentally related purpose, for a Federal or Federal-aid project. Where private entities develop private wetland banks unrelated to Federal or Federal-aid projects there would be no applicability of Uniform Act provisions.

Subpart F—Federal Assistance Programs

§ 710.601 Federal land transfer.

(a) The provisions of this subpart apply to any project undertaken with funds for the National Highway System. If the FHWA determines that a Federal transportation interest exists, these provisions apply to projects constructed on a Federal-aid system or that are under provisions in chapter 2 of title 23, U.S.C.

(b) Sections 107(d) and 317 of title 23, U.S.C., provide for the transfer of lands or interests in lands owned by the United States to a STD or its nominee for highway purposes.

(c) The STD may file an application with the FHWA, or can make application directly to the land-owning agency if the land-owning agency has its own authority for granting interests in land.

(d) Applications under this section shall include the following information:

(1) The purpose for which the lands are to be used;

(2) The estate or interest in the land required for the project;

(3) The Federal-aid project number or other appropriate references;

(4) The name of the Federal agency exercising jurisdiction over the land and identity of the installation or activity in possession of the land;

(5) A map showing the survey of the lands to be acquired;

(6) A legal description of the lands desired; and

(7) A statement of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4332, *et seq.*) and any other applicable Federal environmental laws, including the National Historic Preservation Act (16 U.S.C. 470(f)), 49 U.S.C. 303, and 23 U.S.C. 138.

(e) If FHWA concurs in the need for the transfer, the land-owning agency will be notified and a right-of-entry requested. The land-owning agency shall have a period of four months in which to designate conditions necessary for the adequate protection and utilization of the reserve or to certify that the proposed appropriation is contrary to the public interest or inconsistent with the purposes for which such land or materials have been reserved. FHWA may extend the four-month reply period at the timely request of the land-owning agency for good cause.

(f) Deeds for conveyance of lands or interests in lands owned by the United States shall be prepared by the STD and

certified by an attorney licensed within the State as being legally sufficient. Such deeds shall contain the clauses required by the FHWA and 49 CFR 21.7(a)(2). After the STD prepares the deed, it will submit the proposed deed with the certification to the FHWA for review and execution.

(g) Following execution, the STD shall record the deed in the appropriate land record office and so advise the FHWA and the concerned agency.

(h) When the need for the interest acquired under this subpart no longer exists, the STD must restore the land to the condition which existed prior to the transfer and must give notice to the FHWA and to the concerned Federal agency that such interest will immediately revert to the control of the Federal agency from which it was appropriated or to its assigns.

§ 710.603 Direct Federal acquisition.

(a) The provisions of this section apply to projects on the Interstate System, defense access roads, public lands highways, park roads, parkways, Indian reservation roads, and projects performed by the FHWA in cooperation with Federal and State agencies. For projects on the Interstate System and defense access roads, the provisions of this part are applicable only where the State is unable to acquire the required right-of-way or is unable to obtain possession with sufficient promptness.

(b) To enable the FHWA to make the necessary finding to proceed with the acquisition of the rights-of-way, the STD's written application for Federal acquisition shall include:

(1) Justification for the Federal acquisition of the lands or interests in lands;

(2) The date the FHWA authorized the STD to commence right-of-way acquisition, the date of the project agreement and a statement that the agreement contains the provisions required by 25 U.S.C. 111;

(3) The necessity for acquisition of the particular lands under request;

(4) A statement of the specific interests in lands to be acquired, including the proposed treatment of control of access;

(5) The STD's intentions with respect to the acquisition, subordination, or exclusion of outstanding interests, such as minerals and utility easements, in connection with the proposed acquisition;

(6) A statement on compliance with the provisions of 23 CFR part 771;

(7) Adequate legal descriptions, plats, appraisals, and title data;

(8) An outline of the negotiations which have been conducted by the STD with landowners;

(9) An agreement that the STD will pay its pro rata share of costs incurred in the acquisition of, or the attempt to acquire rights-of-way; and

(10) A statement that assures compliance with the applicable provisions of the Uniform Act. (42 U.S.C. 4601, *et seq.*)

(c) If the landowner tenders a right-of-entry at any time before the FHWA makes a determination that the STD is unable to acquire the rights-of-way with sufficient promptness, the STD is legally obligated to accept such tender and the FHWA may not proceed with Federal acquisition.

(d) If the STD obtains title to a parcel prior to the filing of the Declaration of Taking, it shall notify the FHWA and immediately furnish the appropriate U.S. Attorney with a disclaimer together with a request that the action against the landowner be dismissed (ex parte) from the proceeding and the estimated just compensation deposited into the registry of the court for the affected parcel be withdrawn after the appropriate motions are approved by the court.

(e) When the United States obtains a court order granting possession of the real property, the FHWA shall authorize the STD to take over supervision of the property. The authorization shall include, but need not be limited to, the following:

(1) The right to take possession of unoccupied properties;

(2) The right to give 90 days notice to owners to vacate occupied properties and the right to take possession of such properties when vacated;

(3) The right to permit continued occupancy of a property until it is required for construction and, in those instances where such occupancy is to be for a substantial period of time, the right to enter into rental agreements, as appropriate, to protect the public interest;

(4) The right to request assistance from the U.S. Attorney in obtaining physical possession where an owner declines to comply with the court order of possession;

(5) The right to clear improvements and other obstructions;

(6) Instructions that the U.S. Attorney be notified prior to actual clearing, so as to afford him an opportunity to view the lands and improvements, to obtain appropriate photographs, and to secure appraisals in connection with the preparation of the case for trial;

(7) The requirement for appropriate credits to the United States for any net salvage or net rentals obtained by the State, as in the case of right-of-way acquired by the State for Federal-aid projects; and

(8) Instructions that the authority granted to the STD is not intended to preclude the U.S. Attorney from taking action, before the STD has made arrangements for removal, to reach a settlement with the former owner which would include provision for removal.

(f) If the Federal Government initiates condemnation proceedings against the owner of real property in a Federal court and the final judgment is that the Federal agency cannot acquire the real property by condemnation, or the proceeding is abandoned, the court is required by Law to award such a sum to the owner of the real property that in the opinion of the court provides reimbursement for the owner's reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings.

(g) As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of the compensation in a Federal condemnation, the FHWA shall reimburse the owner to the extent deemed fair and reasonable, the following costs:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the United States;

(2) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States or the effective date of possession, whichever is the earlier.

(h) The lands or interests in lands, acquired under these provisions, will be conveyed to the State or the appropriate political subdivision thereof, upon agreement by the STD, or said subdivision to:

(1) Maintain control of access where applicable;

(2) Accept title thereto;

(3) Maintain the project constructed thereon;

(4) Abide by any conditions which may set forth in the deed; and

(5) Notify the FHWA at the appropriate time that all the conditions have been performed by the State.

(i) The deed from the United States to the State, or to the appropriate political subdivision thereof, shall include the conditions required by 49 CFR part 21.

The deed shall be recorded by the grantee in the appropriate land record office, and the FHWA shall be advised of the recording date.

PART 712—[REMOVED]

2. Part 712 is removed.

PART 713—[REMOVED]

3. Part 713 is removed.

Issued on: December 16, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 98–33994 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–22–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 255

[Docket No. 96–4 CARP DPRA]

Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceeding

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is submitting for public comment proposed regulations which set the royalty rate for the delivery of digital phonorecords in general and defer until the next scheduled rate adjustment proceeding further consideration of the royalty rate for the delivery of a digital phonorecord where the reproduction or distribution is incidental to the transmission which constitutes a digital phonorecord delivery.

DATES: Comments are due by January 25, 1999.

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

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright Arbitration Royalty Panel (''CARP''), PO Box 70977, Southwest Station, Washington, DC 20024. Telephone (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: On November 1, 1995, Congress passed the Digital Performance Right in Sound Recordings Act of 1995 (''Digital Performance Act''). Pub. L. 104–39, 109 Stat. 336. Among other things, it confirms and clarifies that the scope of the compulsory license to make and distribute phonorecords of nondramatic musical compositions includes the right to distribute or authorize distribution by means of a digital transmission which constitutes a ''digital phonorecord delivery.'' 17 U.S.C. 115(c)(3)(A). A ''digital phonorecord delivery'' is defined as ''each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording * * *.'' 17 U.S.C. 115(d).

The Digital Performance Act established that the rate for all digital phonorecord deliveries (''DPDs'') made or authorized under a compulsory license on or before December 31, 1997, was the same rate in effect for the making and distribution of physical phonorecords. 17 U.S.C. 115(c)(3)(A)(i). For digital phonorecord deliveries made or authorized after December 31, 1997, the Digital Performance Act established a two-step process for determining the terms and rates. 17 U.S.C. 115(c)(3)(A)(ii). The first step in the process is a voluntary negotiation period initiated by the Librarian of Congress to enable copyright owners and users of the section 115 digital phonorecord delivery license to negotiate the terms and rates of the license. The Librarian initiated this period on July 17, 1996, and directed it to end on December 31, 1996. 61 FR 37213 (July 17, 1996).

The second step of the process is the convening of a Copyright Arbitration Royalty Panel (''CARP'') to determine reasonable terms and rates for digital phonorecord deliveries for parties not subject to a negotiated agreement. In the July 17, 1996, **Federal Register** notice, the Library stated that CARP proceedings would begin, in accordance with the rules of 37 CFR part 251, on January 31, 1997. 61 FR 37214 (July 17, 1996). The Library also directed those parties not subject to a negotiated agreement to file their petitions to convene a CARP, as required by 17 U.S.C. 115(c)(3)(D), by January 10, 1997, and their Notices of Intent to Participate in CARP proceedings by January 17, 1997. 61 FR 37214–15 (July 17, 1996). In addition, the Library directed interested parties to comment by November 8, 1996, on the possibility of consolidating the CARP proceeding to determine terms and rates for digital phonorecord deliveries with the proceeding to adjust the mechanical royalty rate for the making and distributing of physical phonorecords. 61 FR 37215 (July 17, 1996).

On November 8, 1996, the Library received a joint motion from the Recording Industry Association of America (''RIAA''), the National Music Publishers' Association, Inc. (''NMPA''), and The Harry Fox Agency, Inc. (''Harry Fox'') to vacate the scheduled dates appearing in the July 17, 1996, **Federal Register** notice for convening a CARP. The Library vacated the schedule on December 11, 1996, and established a new precontroversy discovery schedule and date for the filing of Notices of Intent to Participate. 61 FR 65243 (December 11, 1996).

After publication of the new schedule, representatives of the RIAA, NMPA and Harry Fox informed the Library that terms and rates for digital phonorecord deliveries could be negotiated through voluntary agreement and requested that the Library vacate the new schedule to allow sufficient time for such negotiations. The Library vacated the new schedule on February 3, 1997. 62 FR 5057 (February 3, 1997). In time, the parties did reach a voluntary agreement and, pursuant to the rules, the Library published the proposed rates and terms for digital phonorecord deliveries for public comment. 62 FR 63506 (December 1, 1997). In that notice of proposed rulemaking, the Library specified that any party that objected to the proposed rates and terms was required to file a Notice of Intent to Participate and was expected to fully participate in a CARP proceeding. 62 FR 63507 (December 1, 1997).[1]

Three parties filed comments to the proposed terms and rates, the United States Telephone Association (''USTA''), the Coalition of Internet Webcasters (''Webcasters''), and Broadcast Music, Inc. (''BMI''). USTA and the Webcasters also filed their Notices of Intent to Participate because they challenged directly the proposed rates and terms for the delivery of incidental digital phonorecord deliveries. BMI, on the other hand, did not file a Notice of Intent to Participate

[1] On July 1, 1998, the Copyright Office published a notice requesting that any other party with an interest in participating in a CARP proceeding to establish the rates and terms for digital phonorecord deliveries file a Notice of Intent to Participate. 63 FR 35984 (July 1, 1998). In response to this request, the Office received Notices of Intent to Participate from the RIAA, NMPA, Harry Fox, the Songwriters Guild of America (''SGA''), the American Federation of Television and Radio Artists (''AFTRA''), America Online, Inc. (''AOL''), Digital Cable Radio Associates (''DCR''), SESAC, Inc., and the American Society for Composers, Authors and Publishers (''ASCAP'').

because it limited its comments to a request for an amendment to the proposed regulations which would ''state that nothing herein affects the public performance right under 17 U.S.C. 106(4).'' BMI comment at 3.

These comments served to identify heretofore unknown parties who have a significant interest in the setting of the rates and terms for the delivery of digital phonorecord deliveries. Consequently, the parties entered a new round of negotiations in an attempt to resolve the noted concerns and reach a voluntary agreement.

On October 14, 1998, the NMPA, SGA, and RIAA submitted a memorandum to the Copyright Office requesting that it adopt the unopposed rate for the delivery of digital phonorecords in general and the schedule for future rate adjustment proceedings set forth in the November 5, 1997, petition, and that it either adopt the proposed rates and terms for incidental digital phonorecord deliveries set forth in the proposed regulations or sever and defer further consideration of these rates and terms until the next rate adjustment proceeding. The Copyright Office then offered the parties who had filed a Notice of Intent to Participate an opportunity to comment on the memorandum. *See* Order, Docket No. 96–4 CARP DPRA (October 16, 1998).

USTA responded that its concerns were fully addressed by the memorandum; and the three performing rights organizations, ASCAP, BMI, and SESAC, filed a joint comment which generally supported the recommendations outlined in the NMPA/SGA/RIAA memorandum, provided that the final regulations included a provision recognizing that the section 115 license does not affect in any way the public performance rights granted under 17 U.S.C. 106(4). Similarly, the Webcasters filed comments which supported the adoption of the rate and terms for digital phonorecord deliveries in general and the suggestion to sever and defer further consideration of rates and terms for incidental DPDs until the next rate adjustment proceeding with two modifications. First, the Webcasters sought an amendment to the proposed rules that would allow a party to petition the Copyright Office for a proceeding to set a rate for the transmission of an incidental digital phonorecord delivery prior to the next scheduled date. Second, the Webcasters requested that no rate be set for the incidental DPDs prior to the completion of a study required by Congress under section 104 of the Digital Millennium Copyright Act of 1998 (''DMCA''), subject to the right to petition for an interim rate adjustment proceeding.

In reply comments, NMPA/SGA/RIAA agreed to the ASCAP/BMI/SESAC suggestion for a clarification and the Webcasters' suggestion for a right to petition for a rate adjustment proceeding for incidental DPDs during the interim period. However, they did not support the Webcasters' request to postpone the rate adjustment proceeding for incidental DPDs until the Office completes its study on the operation of sections 109 and 117 of the Copyright Act, 17 U.S.C., as effected by Title I of the DMCA.

On December 4, 1998, the NMPA/SGA/RIAA submitted a joint petition for adjustment of digital phonorecord delivery royalty rates, incorporating the proposed modifications except for the suggestion to postpone the rate adjustment proceeding until the completion of the study. The petition was filed pursuant to 17 U.S.C. 115(c) and 803(a) and 37 CFR 251.63(b). Section 251.63(b) allows the Librarian, at the request of the parties, to adopt rates and terms embodied in a proposed settlement without convening an arbitration panel, once the Librarian conducts a notice-and-comment proceeding so long as no party with an intent to participate in a CARP proceeding files a substantive comment opposing the proposed regulations. *See* e.g., 62 FR 63502 (December 1, 1997) (proposing regulations setting rates and terms for the section 118 license).

Accordingly, the Copyright Office is publishing for public comment the rates and terms embodied in the December 4, 1998, joint petition. Any party who objects to the proposed rates and terms for digital phonorecord deliveries must file a written objection with the Copyright Office and an accompanying Notice of Intent to Participate, if the party has not already done so. The content of the written challenge should describe the party's interest in the proceeding, the proposed rule the party finds objectionable, and the reasons for the challenge. If no comments are received, the regulations shall become final upon publication of a final rule, and pursuant to proposed §§ 255.5(b) and 255.7 will cover the period from January 1, 1998, to January 1, 2001. *See* 17 U.S.C. 115(c)(3)(A).

List of Subjects in 37 CFR Part 255

Copyright, Recordings.

For the reasons set forth in the preamble, the Library proposes to amend 37 CFR part 255 as follows:

PART 255—ADJUSTMENT OF ROYALTY PAYABLE UNDER COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHONORECORDS

1. The authority citation for part 255 continues to read as follows:

Authority: 17 U.S.C. 801(b)(1) and 803.

2. Revise § 255.5 to read as follows:

§ 255.5 Royalty rate for digital phonorecord deliveries in general.

(a) For every digital phonorecord delivery made on or before December 31, 1997, the royalty rate payable with respect to each work embodied in the phonorecord shall be either 6.95 cents, or 1.3 cents per minute of playing time or fraction thereof, whichever amount is larger.

(b) For every digital phonorecord delivery made on or after January 1, 1998, except for digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes the digital phonorecord delivery, as specified in 17 U.S.C. 115(c)(3)(C) and (D), the royalty rate payable with respect to each work embodied in the phonorecord shall be the royalty rate prescribed in § 255.3 for the making and distribution of a phonorecord made and distributed on the date of the digital phonorecord delivery (the ''Physical Rate''). In any future proceeding under 17 U.S.C. 115(c)(3)(C) or (D), the royalty rates payable for a compulsory license for digital phonorecord deliveries in general shall be established de novo, and no precedential effect shall be given to the royalty rate payable under this paragraph for any period prior to the period as to which the royalty rates are to be established in such future proceeding.

3. Add § 255.6 through § 255.8 to read as follows:

§ 255.6 Royalty rate for incidental digital phonorecord deliveries.

The royalty rate for digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitutes a digital phonorecord delivery, as specified in 17 U.S.C. 115(c)(3)(C) and (D), is deferred for consideration until the next digital phonorecord delivery rate adjustment proceeding pursuant to the schedule set forth in § 255.7; provided, however, that any owner or user of a copyrighted work with a significant interest in such royalty rate, as provided in 17 U.S.C. 803(a)(1), may petition the Librarian of Congress to establish a rate prior to the commencement of the next digital

phonorecord delivery rate adjustment proceeding. In the event such a petition is filed, the Librarian of Congress shall proceed in accordance with 17 U.S.C. 115(c)(3)(D), and all applicable regulations, as though the petition had been filed in accordance with 17 U.S.C. 803(a)(1).

§ 255.7 Future Proceedings.

The procedures specified in 17 U.S.C. 115(c)(3)(C) shall be repeated in 1999, 2001, 2003, and 2006 so as to determine the applicable rates and terms for the making of digital phonorecord deliveries during the periods beginning January 1, 2001, 2003, 2005, and 2008. The procedures specified in 17 U.S.C. 115(c)(3)(D) shall be repeated, in the absence of license agreements negotiated under 17 U.S.C. 115(c)(3)(B) and (C), upon the filing of a petition in accordance with 17 U.S.C. 803(a)(1), in 2000, 2002, 2004, and 2007 so as to determine new rates and terms for the making of digital phonorecord deliveries during the periods beginning January 1, 2001, 2003, 2005, and 2008. Thereafter, the procedures specified in 17 U.S.C. 115(c)(3)(C) and (D) shall be repeated in each fifth calendar year. Notwithstanding the foregoing, different years for the repeating of such proceedings may be determined in accordance with 17 U.S.C. 115(c)(3)(C) and (D).

§ 255.8 Public performances of sound recordings and musical works.

Nothing in this part annuls or limits the exclusive right to publicly perform a sound recording or the musical work embodied therein, including by means of a digital transmission, under 17 U.S.C. 106(4) and 106(6).

Dated: December 18, 1998.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 98–34027 Filed 12–23–98; 8:45 am]

BILLING CODE 1410–33–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. A99–1; Order No. 1222]

Appeal of Post Office Closing

AGENCY: Postal Rate Commission.

ACTION: Notice of Docket No. A99–1.

SUMMARY: This document addresses matters related to the establishment of a docket to consider an objection to the closing of an Encinitas, CA post office. It identifies likely legal issues and establishes a procedural schedule.

DATES: See Supplementary Information section for dates.

ADDRESSES: Correspondence should be addressed to Margaret P. Crenshaw, Secretary, Postal Rate Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268–0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, (202) 789–6820.

SUPPLEMENTARY INFORMATION: On December 16, 1998, the Commission issued a notice and order (No. 1222) accepting an appeal (as Docket No. A99–1) and establishing a procedural schedule under 39 U.S.C. 404(b)(5). The affected post office is Encinitas, CA 92024. The name of the petitioner is Ida Lou Coley. The petitioner objects to the closing of the referenced post office. Petitioner filed the appeal on November 18, 1998. The categories of issues apparently raised are the effect on the community [39 U.S.C. 404(b)(2)(A)] and the effect on postal services [39 U.S.C. 404(b)(2)(C)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

Scheduling matters. The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404(b)(5)). The procedural schedule has been developed to accommodate the Commission's delay in publication of the initial notice and order in this docket. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioner. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioner or the Postal Service for more information.

The Commission orders the Postal Service to file the record in this appeal by December 23, 1998. Additonal dates in the procedural schedule (apart from those noted elsewhere in this notice) are: January 4, 1999: last day for filing petitions to intervene [*see* 39 CFR 3001.111(b)]; January 14, 1999 (petitioner's participant statement or initial brief [*see* 39 CFR 3001.115(a) and (b)]); February 3, 1999: Postal Service's answering brief [*see* 39 CFR 3001.115(c)]; February 17, 1999: petitioner's reply brief should petitioner choose to file one [*see* 39 CFR 3001.115(d)]; February 24, 1999: deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 CFR 3001.116]; March 18, 1999: expiration of Commission's 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

Dated: December 17, 1998.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 98–33927 Filed 12–23–98; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM98–2; Order No. 1223]

Revisions to Library Reference Rule; Further Changes

AGENCY: Postal Rate Commission.

ACTION: Supplementary notice of proposed rule.

SUMMARY: This document addresses comments on the PRC's initial proposed revisions to rules on the use of library references. It also presents another set of revisions for comment. The revisions are intended to improve administrative aspects of the library reference practice.

DATES: File comments by February 1, 1999.

ADDRESSES: Send comments on this proposal to Margaret P. Crenshaw, Secretary of the Commission, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC, 20268–0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820.

SUPPLEMENTARY INFORMATION:

Regulatory History

On September 8, 1998, the Commission published Order No. 1219 in the **Federal Register** [63 FR 47456] setting forth proposed revisions to rule 31(b). The proposal addressed administrative aspects of the library reference practice. The Commission received eight sets of comments on the proposal. The comments are available

for public inspection in the Commission's docket section, and can be accessed electronically at www.prc.gov.

Background

The order initiating this rulemaking noted that longstanding provisions in the Commission's rules of practice allow participants to designate material as a library reference and file it for public inspection in the Commission's docket section, in lieu of providing the material to the entire service list. *See generally* rule 31(b) (effectively adopted as special rule 5 in Docket No. R97–1). The participant submitting the library reference generally serves a notice to that effect on the Commission and all other participants. The contents of these notices vary, but generally are subject, at a minimum, to the requirements of rule 11.

One rationale advanced in support of this practice is that it eliminates the considerable burden and expense associated with copying and providing voluminous material to every participant on the service list. Another reason is that it facilitates reference to, or identification of, material that may be of interest to only a few participants, of limited interest to the entire service list, or not easily photocopied or duplicated. Regardless of the underlying rationale that may be invoked, the practice is essentially an administrative convenience for the filing participant, stands as an exception to the Commission's service requirements, and does not confer evidentiary status on the designated material. A participant seeking to have part or all of the material admitted into evidence is expected to satisfy Commission rules related to that step.

Concerns have arisen in recent proceedings that this practice could be employed, either inadvertently or strategically, to insulate material from effective cross-examination, and thereby interfere with participants' due process rights and timely completion of Commission action on Postal Service requests. The amended proposed rule provides a more detailed and specific statement of the somewhat limited circumstances when the submission of material as a library reference is appropriate. It reaffirms that this practice is available essentially to prevent unduly burdening filing participants. Several important questions regarding administration of the rule also have surfaced. One of these is whether accompanying notices provide adequate disclosure of the nature of the filed material. Others include whether the identity of the person responsible for preparation of the material should be disclosed; whether the material is being sponsored and, if so, the sponsor's identity; the relationship to interrogatories, testimony or other documents; and whether admission into evidence will be sought. Questions have also arisen concerning whether the material included in a library reference should be prepared in a manner that meets certain minimum standards of presentation or organization with respect to matters such as executive summaries, pagination, tables of contents, and indices.

Order No. 1219 indicated that the Commission considered proposing comprehensive revisions directed at evidentiary, administrative, and other issues related to the use of library references, but concluded it would be more efficient to issue a narrower rulemaking; therefore, it characterized the proposed revisions as ''a limited update'' to its rule 31, Evidence. It also expressly noted that the changes did not address all of the issues that arose in Docket No. R97–1, and flagged the possibility that in individual cases, special rules governing the use of library references might still be needed.

Should the rulemaking be expanded to address evidentiary concerns? Most commenters tailor their observations to the Commission's stated interest in pursuing relatively narrow improvements in the administration of the library reference practice at this time. Some of these commenters support adoption of the rule essentially as proposed. Other supporters of the overall direction of the rulemaking suggest certain modifications. These include, among other things, adopting the mandatory motion requirement on a trial basis only, or dropping it (either entirely or in most instances) in favor of an expanded notice. Suggested modifications also include clarifying proposed disclosure requirements or expanding them, and making minor changes in the organization of the rule.

Several commenters express concern that the rulemaking's scope is so circumscribed that it does not address fundamental evidentiary questions. Some of these commenters offer certain observations about specific provisions of the proposal, but they nevertheless prefer that the Commission expand the focus and hold a public conference to address the mixed questions of evidence and administration entailed in recent controversies. One of these commenters usefully identifies at least six discrete evidentiary issues not addressed in the proposed rule and suggests, among other things, that it might be more appropriate to consider these issues in the context of the Commission's rules on documentary and foundation materials.

Another commenter (generally supportive of the proposed rule) notes that the revisions do not specifically address sponsorship of institutional responses to interrogatories, and proposes a change to another rule (25(b)) to remedy this. This commenter also proposes, among other things, certain changes to the wording of rules relating to exhibits and surveys, and more explicit recognition of the need for cross-references to related material and a participant's obligation to update these in the course of a proceeding.

The Commission believes Order No. 1219 made clear its recognition that the problems encountered in Docket No. R97–1 raised difficult questions of evidence and administration, and would require serious attention beyond the immediate proposal. It believes its concurrent rulemaking, Docket No. RM98–3, may provide an appropriate vehicle for addressing these broader issues, including those identified in some of the comments submitted here. The Commission also appreciates that enforcement of its rules on the admission of material into evidence, as some commenters have noted, is a critical element in curbing future disputes regarding library references.

Given the concerns expressed about the rulemaking's scope, the Commission has reassessed its original position, but again concludes that it is appropriate to restrict the current rulemaking to largely administrative issues. Within this context, the Commission attempts to strike an appropriate balance in terms of the level of detail required to be provided. It is hoped that as now amended, the proposed rules will be largely noncontroversial, and subject to rapid implementation.

Should submission of a library reference be tied to a formal motion for acceptance, as initially proposed, or dropped in favor of a variation on the existing notice requirement? Under prevailing practice, the requirements that apply to the contents of notices accompanying library references are minimal. Further, deficiencies in meeting them generally are remedied only on an ad hoc basis. To provide more uniformity in the level of detail provided, as well as a formal mechanism for prompt review and assessment of compliance with expanded labeling and disclosure requirements, the Commission proposed that each library reference be accompanied by a motion for acceptance. It recognized that this might

entail some additional effort on the part of the Commission and all interested participants at the time a library reference is filed, but balanced this against the delay and confusion entailed in dealing with complications posed by addressing deficiencies discovered or objected to at a later stage.

Several commenters support the proposal to link the filing of library references to a motion. However, one of these supporters raises concerns about delay, and suggests that the proposed approach be adopted on a trial basis only, and carefully monitored. Another commenter observes that requiring a motion may not be necessary in every instance and could have a chilling effect, at least with respect to secondary sources. This commenter suggests allowing most library references to be filed by means of a notice, with a motion required only when circumstances justify. Opponents of any form of motion practice generally criticize the proposed approach as making the process of filing a library reference more difficult and time-consuming.

Despite varying positions on the motion requirement, the comments as a whole generally indicate consensus on the need for better labeling and disclosure regarding the material in a library reference, as well as its relationship to testimony, interrogatories, and the development of the evidentiary record. To the extent that this information could be provided as easily in an expanded notice as in a motion, the Commission agrees that mandating that library references be accompanied by a motion may not be necessary. Thus, the amended revisions proposed here substitute a notice for a motion, and make conforming changes throughout the text to reflect this revision. In making this change, the Commission emphasizes that the notice under this rule must include broader disclosure than is generally the case now. Therefore, replacement of the mechanism originally proposed—a motion—with a notice is not an endorsement of the status quo in terms of the labeling and description contained therein. The Commission stresses that the success of the notice alternative, especially in terms of avoiding delay, will depend largely on a high level of voluntary compliance on the part of participants filing library references. It also regards the notice mechanism as less clear-cut in terms of providing those who perceive deficiencies in a notice with an established avenue of seeking prompt redress. (One commenter's suggestion that the motion not be considered (ruled upon) unless the proposed labeling and disclosure requirements are met implicitly recognizes this.) Since notices are not ''ruled upon'' in the sense specifically used by this commenter, the commenter's suggested amendment is inapposite. However, this does not alter the Commission's expectation that filing participants will adhere to the spirit as well as the letter of the rule in terms of the completeness of the notices accompanying library reference material.

Should the proposed improvements in required labeling, descriptions, and disclosures be adopted as proposed? As indicated, most commenters agree that better labeling and disclosure would reduce or eliminate many of the administrative problems that have arisen. Several suggest essentially minor changes to clarify the nature and extent of required disclosures. One, for example, asks that the second paragraph of section 31(b)(3) in the initial proposal, which requires the filing party to identify the authors or others materially contributing to the preparation of library references, be modified to require that the party explain why such information is not available, if that is the case. The Commission agrees that this change, as the commenter suggests, would be helpful in circumstances where, for example, computer-generated data are provided in response to an interrogatory, but are not being offered in evidence. Another commenter asks that the rule include a description of what the library reference is and a specific requirement that when a library reference is filed in response to an interrogatory, the interrogatory be identified. The Commission believes that the general disclosures it is requiring can be deemed to include this type of information, but is amending the proposal in the manner suggested in order to remove any doubt.

As indicated above, one commenter suggests addressing certain concerns about institutional responses. The Commission finds that resolution of issues in this area must be postponed. This commenter also seeks more explicit cross-referencing than the rule proposes. The Commission believes the proposal presented here strikes an appropriate balance among the interests of all concerned.

Are filing and service concerns, especially the number and format of copies filed with the Commission and special requests for service, adequately addressed? The proposed rule required that one hard copy and, when possible, one electronic version of the material in the library reference be filed with the Commission. This parallels the current requirement with respect to hard copies and formalizes the growing, but now-voluntary, practice of submitting electronic versions. There was little reaction to the requirement that an electronic version be provided, but to the extent it was mentioned, it garnered support. The version of the rule proposed here retains the requirement related to electronic copies.

As initially proposed, a circumstance that can be invoked for filing a library reference is the likelihood that the material will be of limited interest to the entire service list. This was coupled with a requirement that the filing participant agree to serve the material on individual participants, if so requested. Under the motion practice envisioned in the original proposal, participants interested in receiving actual service of other library reference material would have had a clear opportunity to request this—as early as the when the companion motion was received—so the Commission did not otherwise provide for special requests in its initial proposal.

Two commenters suggest extending the option of special requests for actual service to all library reference material. One suggests that the copy be provided within three days of a request; the other proposes requiring ''prompt'' service, without further specification of a time limit. The Commission appreciates participants' concern about promptly obtaining actual service of all library references of interest to them. However, it also believes that the availability of electronic versions of many library references should reduce, if not eliminate, the need for actual service of much library reference material. It also is concerned about blanket requests for special service, which would undermine the administrative convenience the rule extends to the filing participant. Thus, the Commission does not propose an across-the-board authorization for participants to make special requests for service; however, it amends the provision on actual service that remains in the rule because it finds that the current wording is more open-ended than desirable. Specifically, the Commission proposes requiring, in situations meeting the terms of section 31(b)(2)(i) (A) and (B) proposed here, that the filing participant provide a copy of the requested material within three days or, in the alternative, inform the requesting participant why the material cannot be provided within that timeframe, indicate when the material will be available, and make reasonable efforts to promptly provide the material. The absence of a specific authorization

for special requests in other instances [section 31(b)(2)(i) (A) and (C)–(E)] does not automatically foreclose a participant from making a request. In these situations, the Commission strongly encourages informal cooperation among the parties in addressing special service requests.

Another commenter, citing problems with obtaining prompt access to certain library references, suggests modifying the proposal to require that two copies of each library reference be filed with the Commission. (The Commission assumes that the suggestion regarding filing two copies of each library reference relates to hard copies, rather than to two electronic versions.) The Commission is aware that a requirement of this nature could pose hardships in certain instances, especially on the Postal Service, but is also concerned that participants seeking to review a hard copy could be inconvenienced if there is only one on file at the Commission. The Commission believes requiring participants to file two copies with its docket section strikes an appropriate balance, especially since instances where this poses undue burden or hardship on the filing party can be dealt with through a request for waiver.

In addition, the Commission, on its own initiative, is making a minor editorial revision to clarify that the library reference practice is primarily a convenience to the participant filing the designated material. Specifically, it amends the second paragraph of section 31(b)(2)(i) by substituting the words ''filing participants'' for the term ''participants.'' The Commission believes that the sense of the proposal as a whole makes it clear that the referenced participant is generally the participant filing, or designating, material as a library reference. The Commission also clarifies the timing of the notice by adding the word ''contemporaneous'' in section 31(b)(2)(ii) proposed here.

Should the technical and minor editorial changes suggested by several commenters be made at this time? Several commenters suggest that minor reorganization of the rule (in terms of numbering) could avoid potential confusion. The Commission agrees that subsections (3) through (7) of rule 31(b)—in the initial rulemaking—relate solely to library references, and not to the other types of documents covered by rule 31(b). Since, among other things, the concurrent general review of the rules was expected to require additional organizational changes in the near future, the Commission preliminarily determined to postpone more extensive re-numbering. However, given commenters' concerns about potential confusion, the Commission is re-numbering the section, generally along the lines suggested, with the understanding that further reorganization may be needed, either to conform with future changes or with official publication requirements.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

For the reasons discussed in the preamble, the Commission proposes to amend 39 CFR 3001.31 as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b); 3603, 3622–24, 3661, 3662.

2. Amend § 3001.31 by revising paragraph (b) to read as follows:

§ 3001.31 Evidence.

* * * * *

(b) *Documentary material.* (1) *General.* Documents and detailed data and information shall be presented as exhibits. Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant or not intended to be put in evidence, the participant offering the same shall plainly designate the matter offered excluding the immaterial or irrelevant parts. If other matter in such document is in such bulk or extent as would unnecessarily encumber the record, it may be marked for identification, and, if properly authenticated, the relevant and material parts may be read into the record, or, if the Commission or presiding officer so directs, a true copy of such matter in proper form shall be received in evidence as an exhibit. Copies of documents shall be delivered by the participant offering the same to the other participants or their attorneys appearing at the hearing, who shall be afforded an opportunity to examine the entire document and to offer in evidence in like manner other material and relevant portions thereof.

(2) *Library references.* (i) The term ''library reference'' is a generic term or label that participants and others may use to identify or designate certain documents or things (''material'') filed with the Commission's docket section. The practice of filing a library reference is authorized primarily as a convenience to filing participants and the Commission under certain circumstances. These include:

(A) When the physical characteristics of the material, such as number of pages or bulk, are reasonably likely to render compliance with the service requirements unduly burdensome; and

(B) When interest in the material or things so labeled is likely to be so limited that service on the entire list would be unreasonably burdensome, and the participant agrees to serve the material on individual participants upon request within three days of a request, or to provide, within the same period, an explanation of why the material cannot be provided within three days, and to undertake reasonable efforts to promptly provide the material; or

(C) When the participant satisfactorily demonstrates that designation of material as a library reference is appropriate because the material constitutes a secondary source. A ''secondary source'' is one that provides background for a position or matter referred to elsewhere in a participant's case or filing, but does not constitute essential support and is unlikely to be a material factor in a decision on the merits of issues in the proceeding; or

(D) When reference to, identification of, or use of the material would be facilitated if it is filed as a library reference; or

(E) When otherwise justified by circumstances.

(ii) *Filing procedure.* (A) Participants filing material as a library reference shall provide contemporaneous written notice of this action with the Commission and other participants, in accordance with applicable service rules. Participants shall file two hard copies of the designated material with the Commission's docket section. The notice shall set forth with particularity the reason(s) the material is being designated as a library reference, with reference to paragraph (b)(2)(i) of this section, and

(*1*) Describe what the material consists of or represents;

(*2*) Explain how the material relates to the participant's case or to issues in the proceeding;

(*3*) Indicate whether the material contains a survey or survey results; and

(*4*) Provide a good-faith indication of whether the participant anticipates seeking admission of the material, in whole or in part, into evidence.

(B) The notice shall also identify authors or others materially contributing to the preparation of the library reference, identify the testimony, exhibit, or interrogatory, if applicable, to which the library reference relates, or indicate why this information cannot be identified. If the participant filing the

library reference anticipates seeking to enter all or part of the material contained therein into the evidentiary record, the notice also shall identify portions expected to be entered and the expected sponsor(s).

(iii) *Labels and descriptions.* Material filed as a library reference shall be labeled in a manner consistent with standard Commission notation and any other conditions the presiding officer or Commission establishes. In addition, material designated as a library reference shall include a preface or summary addressing the following matters:

(A) The proceeding and document or issue to which the material relates;

(B) The identity of the participant designating the library reference;

(C) The identity of the witness or witnesses who will be sponsoring the material or the reason why a sponsoring witness or witnesses cannot be identified; and, to the extent feasible,

(D) Other library references or testimony that utilize information or conclusions developed therein. In addition, the preface or summary shall explicitly indicate whether the library reference is an update or revision to a library reference filed in another Commission proceeding, and provide adequate identification of the predecessor material.

(iv) *Electronic version.* Material filed as a library reference shall also be made available in an electronic version, absent a showing of why an electronic version cannot be supplied or should not be required to be supplied. The electronic version shall include the same, or similar, information required to be included in the preface or summary.

(v) *Status of library references.* Designation of material as a library reference and acceptance in the Commission's docket section does not confer evidentiary status. The evidentiary status of the material is governed by this section.

* * * * *

Dated: December 17, 1998.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 98–33909 Filed 12–23–98; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

45 CFR Part 60

RIN 0906–AA41

National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Medical Malpractice Payments Reporting Requirements

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes amendments to the existing regulations implementing the Health Care Quality Improvement Act of l986, establishing the National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners (the Data Bank). The proposed regulations would amend the existing reporting requirements regarding payments on medical malpractice claims or actions in order to include reports on payments made on behalf of those practitioners who provided the medical care that is the subject of the claim or action, whether or not they were named as defendants in the claim or action. These amendments are designed to prevent the evasion of Data Bank medical malpractice payments reporting requirements.

DATES: Comments on this proposed rule are invited. To be considered, comments must be received by February 22, 1999.

ADDRESSES: Written comments should be addressed to Neil Sampson, Acting Associate Administrator, Bureau of Health Professions (BHPr), Health Resources and Services Administration, Room 8–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the Office of Research and Planning, BHPr, Room 8–67, Parklawn Building, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas C. Croft, Director, Division of Quality Assurance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A–55, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: (301) 443–2300.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health and Human Services, with the approval of the Secretary, published in the **Federal Register** on October 17, 1989 (54 FR 42722), regulations implementing the Health Care Quality Improvement Act of 1986 (the Act), title IV of Public Law 99–660 (42 U.S.C. 11101 *et seq.*), through the establishment of the National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners (the Data Bank). Those regulations are codified at 45 CFR part 60.

Among other items of information that must be reported to the Data Bank, section 421 of the Act requires that each entity that makes a payment in settlement or satisfaction of a ''medical malpractice action or claim'' must report certain information ''respecting the payment and circumstances thereof'' (section 421(a)). The information to be so reported includes ''the name of any physician or licensed health care practitioner for whose benefit the payment is made'' (section 421(b)(1)). The term ''medical malpractice action or claim'' is defined for purposes of the Act in section 431(7), to mean—

* * * a written claim or demand for payment based on a health care provider's furnishing (or failure to furnish) health care services, and includes the filing of a cause of action, based on the law of tort, brought in any court of any State of the United States seeking monetary damages.

Thus, the Act provides for the reporting, by the payer, of any payment made for the benefit of a health care practitioner resulting from any ''written claim or demand for payment'' based on ''furnishing (or failure to furnish) health care services.''

In implementing this requirement in the regulations published on October 17, 1989, the Secretary included in § 60.7(a), entitled ''*Who must report,*'' language stating that the provision applies to a payer who makes a payment ''for the benefit of'' a health care practitioner

* * * in settlement of or in satisfaction in whole or in part of *a claim or a judgment against such* * * * *health care practitioner* for medical malpractice. [Emphasis added.]

It has come to the Department's attention that there have been instances in which a plaintiff in a malpractice action has agreed to dismiss a defendant health care practitioner from a proceeding, leaving or substituting a hospital or other corporate entity as defendant, at least in part for the purpose of allowing the practitioner to avoid having a report on a malpractice payment made on his or her behalf submitted to the Data Bank. The

Department recognizes that this has occurred especially in cases when the counsel of a self-insured hospital or other self-insured corporate entity (which employs the defendant health care practitioner) has actively pursued having the defendant health care practitioner's name dropped from a proceeding, leaving or substituting the hospital or other corporate entity as the defendant, to avoid having to report the practitioner.

This practice makes it possible for practitioners whose negligent or substandard care has resulted in compensable injury to patients to evade having that fact appear in the Data Bank, since the payment is arguably not in satisfaction of a claim or judgment against the practitioner. Such a result is clearly inconsistent with the Congressional purpose, explicit in the Act, of

> restrict[ing] the ability of incompetent [practitioners] to move from State to State without disclosure or discovery of the [practitioner's] previous damaging or incompetent performance.

See section 401(2) of the Act. Since the regulation quoted above, literally read, does permit a result so at odds with the purposes of the statute, the Secretary proposes to revise it. The Department does recognize that there are legitimate situations when it is impossible to identify a practitioner(s) for whose benefit the payment was made. For example, a situation could occur wherein a power failure causes a heart monitor to cease functioning leading to an injury or death, which ultimately leads to a malpractice payment. In these very limited circumstances, the Secretary proposes to require that the reporter state the sequence of events that led to the payment, why the practitioner could not be identified, and the amount of the payment. The Department will use this information to identify medical malpractice reporters that appear to make a practice of not identifying specific practitioners.

The Department proposes to amend paragraphs (a) and (b) of § 60.7 as follows:

1. Paragraph (a) would be revised by removing the reference to a claim or judgment ''against such physician, dentist, or other health care practitioner'' and adding language from section 421(a) of the Act; and

2. Paragraph (b)(1) would be revised to state explicitly that the reference in that provision to the practitioner ''for whose benefit the payment is made'' includes ''each practitioner whose acts or omissions were the basis of the action or claim.''

A new paragraph (b)(2) would require that in situations where it is impossible to identify the practitioner for whose benefit the payment was made, the payor must report a statement of the facts and why the practitioner could not be identified and the amount of the payment. Due to the fact that the hospital is no longer the primary place of practice for many practitioners, new paragraph (b)(2) would further require the payer to include not only the name of each hospital with which the practitioner is affiliated, but also the name of each health care entity with which the practitioner is affiliated. Former paragraphs (b)(2) and (b)(3) are being redesignated as paragraphs (b)(3) and (b)(4) respectively.

These changes are intended to make clear that the reach of the term ''practitioner for whose benefit the payment is made'' as it is used in the Act and the regulations extends to any practitioner whose acts or omissions were the basis for the action or claim, regardless of whether that practitioner is a named defendant in a malpractice action. It thus becomes the responsibility of the payer, during the course of its review of the merits of the claim, to identify any practitioner whose professional conduct was at issue in any malpractice action or claim that has resulted in a payment, and to report that practitioner to the Data Bank.

The Secretary notes that, consistent with Congressional purpose explicit in the Act, § 60.7(d), entitled ''*Interpretation of Information*'' states:

> A payment in settlement of a medical malpractice action or claim shall not be construed as creating a presumption that medical malpractice has occurred.

This provision remains in the rule and is one of the basic tenets of the Data Bank.

Economic Impact

Executive Order 12866 requires that all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding unnecessary burden. Regulations which are ''significant'' because of cost, adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department believes that the resources required to implement the requirement in these regulations are minimal. Therefore, in accordance with the Regulatory Flexibility Act of 1980 (RFA), and the Small Business Regulatory Enforcement Act of 1996, which amended the RFA, the Secretary certifies that these regulations will not have a significant impact on a substantial number of small entities. For the same reasons, the Secretary has also determined that this does not meet the criteria for a major rule as defined under Executive Order 12866. The NPRM would amend the existing reporting requirements regarding payments on medical malpractice claims or actions in order to include reports on payments made on behalf of those practitioners who provided care that is the subject of the claims, whether or not they were named as defendants in the medical malpractice claim or action. As such, the proposed rule would have no major effect on the economy or on Federal expenditures.

Paperwork Reduction Act of 1995

The National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners regulations contain information collections which have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 and assigned control number 0915–0126. One of the approved reporting requirements will be affected by the proposed amendments. As required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3507(d)), the Department has submitted a copy of this proposal rule to the Office of Management and Budget for its review of this information collection requirement.

Collection of Information: National Practitioner Data Bank For Adverse Information on Physicians and Other Health Care Practitioners.

Description: The NPRM would amend the existing reporting requirements regarding payments on medical malpractice claims or actions in order to include reports on payments made for the benefit of those practitioners whose acts or omissions were the basis of the action or claim, whether or not they were named as defendants in the medical malpractice claim or action.

Description of Respondents: Business or other for-profit, not-for-profit institutions.

Estimated Annual Reporting Burden: The section number and the estimated change in reporting burden are as follows:

§ 60.7

	*Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Currently approved burden	150	105.33	15,800	.75	11,850
Actual current volume	425	44.7	19,000	.75	14,250
Total burden after amendment	625	60.8	38,000	.75	28,500
Reporting due to this NPRM	300	63.33	19,000	.75	14,250

*The number of entities reporting payments was underestimated in the last clearance request. The estimate of 150 entities was based on the fact that fewer than 100 large insurers are responsible for 80–85 percent of the reports. A check of the Data Bank records for 1997 showed that many more entities than expected file one or two reports per year, and that a total of 425 entities filed reports in 1997. That number is expected to increase by about 50 percent (rounded to 625) with the change in the regulation. The total number of reports filed is expected to double from the 1997 level of 19,000 to 38,000 per year. The Department believes that the resources required to implement the requirement in these regulations are minimal.

There is no reliable way to forecast the increase in medical malpractice reports as a result of this regulation. However, in conversations with many individuals such as plaintiffs' and defendants' attorneys, representatives from self-insured health care entities, and malpractice insurers, the most common estimate is that the Data Bank currently receives reports on 50 percent of the medical malpractice payments being made. Most of the new reports will not be made by current reporters. Instead, there will be a sizeable increase in the number of new reporters (estimated at 200), with each new reporter filing only a small number of reports in a single year. The 63.33 reports per respondent represent an average over all types of respondents, from the large insurers who submit hundreds of reports per year to the small reporters (mainly self-insured hospitals and other self-insured corporate entities) that may submit one or two reports per year.

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

Written comments and recommendations concerning the proposed information collection should be sent to: Wendy Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503. OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. This does not affect the deadline of the public to comment to the Department on the proposed regulations.

List of Subjects in 45 CFR Part 60

Claims, Fraud, Health, Health maintenance organizations (HMOs), Health professions, Hospitals, Insurance companies, Malpractice, Reporting and recordkeeping requirements.

Dated: October 3, 1997.

Claude E. Fox,

Acting Administrator, Health Resources and Services Administration.

Approved: August 24, 1998.

Donna E. Shalala,

Secretary.

Accordingly, 45 CFR part 60 is proposed to be amended as set forth below:

PART 60—NATIONAL PRACTITIONER DATA BANK FOR ADVERSE INFORMATION ON PHYSICIANS AND OTHER HEALTH CARE PRACTITIONERS

1. The authority citation for 45 CFR part 60 continues to read as follows:

Authority: Secs. 401–432 of the Health Care Quality Improvement Act of 1986, Pub. L. 99–660, 100 Stat. 3784–3794, as amended by sec. 402 of Pub. L. 100–177, 101 Stat. 1007–1008 (42 U.S.C. 11101–11152).

2. Section 60.7 is amended by revising paragraph (a); by revising the introductory texts to paragraphs (b) and (b)(1); by revising paragraph (b)(1)(ix); by redesignating paragraphs (b)(2) and (3) as paragraphs (b)(3) and (4) and by adding a new paragraph (b)(2). As so amended, § 60.7 reads in pertinent part as follows:

§ 60.7 Reporting medical malpractice payments.

(a) *Who must report.* Each entity, including an insurance company, which makes a payment under an insurance policy, self-insurance, or otherwise, for the benefit of a physician, dentist or other health care practitioner in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim shall report information respecting the payment and circumstances thereof, as set forth in paragraph (b) of this section, to the Data Bank and to the appropriate State licensing board(s) in the State in which the act or omission upon which the medical malpractice claim was based. For purposes of this section, the waiver of an outstanding debt is not construed as a ''payment'' and is not required to be reported.

(b) *What information must be reported.* Entities described in paragraph (a) of this section must report the following information:

(1) With respect to the physician, dentist, or other health care practitioner for whose benefit the payment is made, including each practitioner whose acts or omissions were the basis of the action or claim—

* * * * *

(ix) Name of each hospital and health care entity with which he or she is affiliated, if known;

(2) If the physician, dentist, or other health care practitioner could not be identified—

(i) A statement of such fact and an explanation of the inability to make the identification, and

(ii) The amount of the payment.

* * * * *

[FR Doc. 98–34066 Filed 12–23–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 16

[USCG–1998–4469]

RIN 2115–AF67

Management Information System (MIS) Requirements

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the Management Information System (MIS) annual reporting requirements for chemical drug testing. The Office of Management and Budget (OMB) has requested that the Coast Guard reduce its collection of information effort. The proposed rule would exempt certain marine employers from submitting the annual MIS report and would eliminate the requirement for all marine employers to notify the Coast Guard when a consortium or other party submits the employer's annual report.

DATES: Comments must reach the Docket Management Facility by February 22, 1999. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB by February 22, 1999.

ADDRESSES: You may mail your comments to the Docket Management Facility, (USCG–1998–4469), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001, or deliver them to room PL–401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, contact Lieutenant Jennifer Ledbetter, Coast Guard, telephone 202–267–0684. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (USCG–1998–4469) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES**. If you want acknowledgment of receipt of your comments, please enclose a stamped self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. We may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Docket Management Facility at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If we determine that the opportunity for oral presentations will aid this rulemaking, we will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Office of Management and Budget (OMB) requested that the Coast Guard reduce the amount of information collected under the Management Information System (MIS) annual reporting requirements for chemical testing data. The required reports provide drug and alcohol testing information from marine employer chemical testing programs. The Coast Guard and OMB discussed how to reduce the annual reporting requirements for chemical drug testing information. The reductions discussed with OMB are set out in this proposed rule.

Discussion of Proposed Rule

Part 16 of Title 46, Code of Federal Regulations, requires all marine employers to collect chemical drug and alcohol testing data from their programs. It also requires marine employers to submit this data to the Coast Guard in an annual MIS report. Specific requirements for collecting and submitting this data are listed in § 16.500. Marine employers must submit all chemical drug and alcohol testing data on Form CG–5573 found in Appendix B of 46 CFR part 16.

Section 16.500 allows a consortium or other employer representative to submit the chemical drug and alcohol testing data for a marine employer. Unless submitting their own report, marine employers must notify us in writing each year naming the consortium or other employer representative submitting the report.

We propose the following changes to our MIS reporting requirements:

- Remove the requirement for marine employers to notify the Coast Guard in writing each year that a consortium or other employer representative will submit the annual MIS report.
- Remove the annual MIS report submission requirement for marine employers with 10 or fewer employees subject to testing by Part 16 (covered employees) after submission of the third annual MIS report.
- Reorganize § 16.500, incorporating these changes and revising the language for clarity.

Written Notification Requirement

We propose removing the written notification requirement in § 16.500(c) for marine employers included in a consolidated annual MIS report to inform the Coast Guard of the name of the consortium or other representative submitting the annual MIS report. Since consortiums must submit a list of employers included in their annual MIS report, the individual written notifications are no longer needed. We can use the consortium lists to determine employer compliance with the reporting requirements. This change would apply to all marine employers.

Annual MIS Report Submission

We also propose removing the annual MIS report submission requirement for marine employers with 10 or fewer covered employees after they have submitted the annual MIS report (Form CG–5573) for three consecutive years since January 1, 1996. Marine employers who have met the submission requirement for the three preceding years could apply this new provision to their 1998 report and each following year during which they have no more than 10 covered employees.

This proposal would not change the recordkeeping requirement for marine employers. All marine employers must continue collecting and keeping the required drug testing data, making it available to the Coast Guard if requested.

Editorial Changes

We would also make several editorial changes and clarify the language in § 16.500. We would reorganize and shorten the paragraphs and simplify the regulatory language. None of these editorial changes would substantively change existing requirements.

These two proposed changes to the MIS reporting requirements would reduce the reporting burden on marine employers but would still ensure that we receive adequate chemical testing data for analysis and program management.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Written Notification Requirement

This rulemaking would remove the written notification requirement for marine employers using a consortium or other party to submit their annual MIS reports. Marine employers using a consortium or other representative to file annual MIS reports would no longer need to submit written notification to the Coast Guard.

According to current MIS data, 7,150 marine employers are members of consortiums. The cost of each written notification is approximately $12 (15 minutes of administrative time at $45 per hour to draft the written notification). This change would reduce the employer reporting burden by a total of 5,361 hours and $241,313 for 3 years.

Annual MIS Report Submission

This rulemaking would also remove the annual MIS report (Form CG–5573) submission requirement for marine employers with 10 or fewer covered employees who submit an individual annual MIS report, and who have submitted the required MIS reports for three consecutive years since January 1, 1996. The estimated response burden for each MIS form submitted is calculated at $45 per hour, with each form averaging about one hour to complete. The MIS data from 1994 through 1997 indicated an average of 885 forms submitted annually to the Coast Guard. The forms represent 860 individual employer submissions and 25 consortium submissions consolidating data for 7,150 employers. At this time, we are seeking comment from employers and consortiums about the current actual time and administrative costs spent filling out and submitting the annual MIS report.

The 1997 MIS data indicated that 354 of the 885 forms received were submitted by employers with 10 or fewer covered employees. We propose removing the annual MIS report submission requirement for marine employers with 10 or fewer covered employees who have filed the report for three consecutive years since January 1, 1996. Of the 354 employers, 82 have filed three consecutive annual MIS reports since January 1, 1996, and would not need to submit an annual MIS report for 1998. These marine employers would also be exempt from submitting the annual MIS report each following year during which they have no more than 10 covered employees. An additional 92 marine employers would qualify for the exemption for 1999 and the remaining 180 would qualify for exemption for 2000.

This exemption would result in the following costs during the first three years for the MIS form submission for employers with 10 or fewer covered employees: Initial year, 272 forms (354–82) × $45 = $12,240, the second reporting year, 180 forms (272–92) × $45 = $8,100, and the final reporting year would have no costs.

The total reporting burden for the remaining 531 forms from consortiums (25 forms) and employers (506 forms) with 11 or more covered employees would cost $23,895 annually. The three-year cost would be $71,685 ($23,895 × 3 years). Combined with the costs for 10 or fewer covered employees of $20,340, results in a cost of $92,025 ($20,340 + $71,685).

The total recordkeeping costs for MIS requirements would not change and would remain at $39,825 annually. The three-year cost would be $119,475 ($39,825 × 3 years). The total costs to the marine industry for the three year period would be $211,500 [$92,025 (reporting) + $119,475 (recordkeeping)].

The following table summarizes the reporting and recordkeeping burden for Subcategory III by the end of 3 years.

MIS BURDEN SUMMARY

Year	Employer category	Annual MIS report	Notification letter	Recordkeeping	Total burden hours & costs
Year 1	.....	Hours: 803 hrs	Letters: 0, Requirement	Hours: 885 hrs	Burden Hours: 1,688
		Costs: $36,135	Removed.	Costs: $39,825	hrs.
					Costs: $75,960.
	≤10 employees	272 forms x $45/hour.			
	≥11 employees	506 forms x $45/hour.			
	Consortiums	25 forms x $45/hour.			
Year 2	.....	Hours: 711 hrs	Letters: 0, Requirement	Hours: 885 hrs	Burden Hours: 1,596
		Costs: $31,995	Removed.	Costs: $39,825	hrs.
				No Change	Costs: $71,820.
	≤10 employees	180 forms x $45/hour.			
	≥11 employees	506 forms x $45/hour.			
	Consortiums	25 forms x $45/hour.			
Year 3	.....	Hours: 531 hrs	Letters: 0, Requirement	Hours: 885 hrs	Burden Hours: 1,416
		Costs: $23,895	Removed.	Costs: $39,825	hrs.
				No Change	Costs: $63,720.
	≤10 employees	0 forms x $45/hour.			
	≥11 employees	506 forms x $45/hour.			
	Consortiums	25 forms x $45/hour.			
3-Year Total ..	.....	.....	.....	.....	Burden Hours: 4,700 hrs.
					Costs: $211,500.

The cost to the Coast Guard for each MIS report submitted is calculated at approximately $15 per report. Each report averages about $15 to review, collate, and file this information with the responsible research center. This

costs the Coast Guard about $30,675 (2,045 reports submitted x $15) for the 3-year period.

Summary of Benefits

This proposed rule would remove the written notification requirement in 16.500 for marine employers who do not submit their own annual MIS report to inform the Coast Guard in writing the name of the consortium or other representative submitting their annual MIS report. The rule would also reduce the reporting requirement for all marine employers of 10 or fewer covered employees to submit the annual MIS form for chemical and drug testing data. Marine employers using a consortium or other representative to file annual MIS reports would no longer need to submit written notification to the Coast Guard. According to current MIS data, 7,150 marine employers are members of consortiums. This change would reduce the employer reporting burden by a total of 5,361 hours (1,787 hours per year) and $241,313 ($80,438 per year).

This proposed rule would remove the annual reporting requirement for all marine employers who report through their respective consortium. This proposed rule would reduce the employer reporting burden hours by a total of 5,715 hours (5,361 Notification Letter + 354 MIS Report) at $257,243 ($241,313 Notification Letter + $15,930 MIS Report) by the end of 3 years.

This proposed rule would also benefit the marine industry by reducing the reporting requirements for certain marine employers by 40%. By exempting those employers with 10 or fewer covered employees who have provided the required MIS reports for three consecutive years since January 1, 1996, industry would save $15,930 in reporting costs for the three-year period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule would only affect small entities by reducing their annual reporting burden. The MIS data indicates how many employees are subject to chemical drug testing, not the total number of employees. However, those marine employers with 10 or fewer employees are most likely considered small entities. This rule would reduce the reporting burden and would not create an additional burden for this group or any other marine employers. This proposed rule would reduce the employer reporting burden hours by a total of 5,715 hours (5,361 Notification Letter + 354 MIS Report) at $257,243 ($241,313 Notification Letter + $15,930 MIS Report) by the end of 3 years.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment to the Docket Management Facility at the address under **ADDRESSES** explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lieutenant Jennifer Ledbetter, Coast Guard, at 202–267–0684. Copies of this NPRM will also be mailed to local Small Business Development Centers.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As defined in 5 CFR 1320.3(c), ''collection of information'' includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follow. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Collection of Commercial Vessel and Personnel Accident (Marine Casualty) Information and Programs for Chemical Drug & Alcohol Testing of Commercial Vessel Personnel, including Required Drug and Alcohol Testing following a Serious Marine Accident.

Summary of the Collection of Information: 46 U.S.C. 6101 authorizes the Coast Guard to prescribe regulations for the annual MIS reporting requirements for chemical drug testing. Section 16.500 contains the requirement for all marine employers to collect chemical drug and alcohol testing data for their employees. All marine employers must submit this data to the Coast Guard in an annual MIS report. Marine employers must submit all chemical drug and alcohol testing data on Form CG–5573 found in Appendix B of 46 CFR Part 16. This proposed rule would eliminate the annual MIS report submission requirement for employers with 10 or fewer covered employees who have provided the required MIS reports for three consecutive years since January 1, 1996.

The annual average burden of the MIS reporting requirements to industry was developed from employer size, employer reports, and type of submitter. The annual average burden estimates reflect data from 1994 through 1997, showing that the Coast Guard receives an average of 354 reports from 354 employers with 10 or fewer covered employees who have provided the required MIS reports for three consecutive years since January 1, 1996. This rule would exempt these marine employers from submitting the annual MIS report each following year during which they have no more than 10 covered employees. This would result in a total annual reporting burden reduction of 354 hours with a 40% reduction in the number of forms submitted to the Coast Guard with only a 4% reduction in data.

The annual average reporting burden would be 531 reports representing 7,656 employers. This consists of 506 reports from approximately 506 employers with 11 or more employees and 25 reports from 25 consortiums representing approximately 7,150 employers.

Need for Information: The requirement to submit MIS information would help meet the goal of knowing the location of all marine employers and

ensuring complete compliance with drug testing regulations.

Proposed Use of Information: The Coast Guard would utilize this information to identify significant trends of drug abuse in the marine industry through program implementation.

Description of the Respondents: Consortia and independent marine employers who collect and submit chemical and drug testing data for their employees.

Number of Respondents: 7,656 marine employers who collect and submit chemical and drug testing data for their employees.

Frequency of Response: Affected marine employers are required to submit anti-drug program reports on an annual basis.

Burden of Response: All marine employers must submit data from their chemical testing program to the Coast Guard in the annual MIS report (Form CG–5573). A consortium or other employer representative may submit the data for a marine employer. After submission of the third annual MIS report, this rulemaking would reduce the reporting requirement for all marine employers with 10 or fewer covered employees by not requiring them to submit the annual MIS form for chemical drug and alcohol testing data for succeeding years during which they had no more than 10 covered employees.

Estimated Total Annual Burden: 7,656 marine employers.

As required by section 3507(d) of the Paperwork Reduction Act of 1995, the Coast Guard has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

The Coast Guard solicits public comment on the proposed collection of information to (1) evaluate whether the information is necessary for the proper performance of the functions of the Coast Guard, including whether the information would have practical utility; (2) evaluate the accuracy of the Coast Guard's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection on those who are to respond, as by allowing the submittal of responses by electronic means or the use of other forms of information technology.

Persons submitting comments on the collection of information should submit their comments both to OMB and to the Docket Management Facility where indicated under **ADDRESSES** by the date under **DATES**.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Before the requirements for this collection of information become effective, the Coast Guard will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(a) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. The proposed rule would exempt certain marine employers from submitting the annual MIS report for chemical drug testing and would eliminate the requirement for written notification. The proposed regulation performs administrative changes to a currently approved information collection for the annual MIS report. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 16

Chemical testing, Data collection, Data reporting.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 16 as follows:

PART 16—CHEMICAL TESTING

1. The authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; 49 CFR 1.46.

2. Revise § 16.500 to read as follows:

§ 16.500 Management Information System requirements.

(a) *Data collection.* All marine employers must collect the following drug and alcohol testing program data for each calendar year:

(1) Total number of employees during the calendar year that were subject to the drug testing rules in this part.

(2) Number of employees subject to testing under the anti-drug rules of both the Coast Guard and another DOT agency based on the nature of their assigned duties as identified by each agency.

(3) Number of drug and alcohol tests conducted identified by test type. Drug test types are pre-employment, periodic, random, post-accident, and reasonable cause. Alcohol test types are post-accident and reasonable cause.

(4) Number of positive drug test results verified by a Medical Review Officer (MRO) by test type and types of drug(s). Number of alcohol tests resulting in a blood alcohol concentration weight of .04 percent or more by test type.

(5) Number of negative drug and alcohol test results reported by MRO by test type.

(6) Number of applicants denied employment based on a positive drug test result verified by an MRO.

(7) Number of marine employees with a MRO-verified positive test result who returned to duty in a safety-sensitive position subject to required chemical testing, after meeting the requirements of § 16.370(d) and part 5 of this chapter.

(8) Number of marine employees with positive drug test results verified by a MRO as positive for one drug or a combination of drugs.

(9) Number of employees required under this part to be tested who refused to submit to a drug test.

(10) Number of covered employees and supervisory personnel who received the required initial training.

(b) *Data reporting.*

(1) By March 15 of the year following the collection of the data in paragraph (a) of this section, marine employers must submit the data on Form CG–5573 to Commandant (G–MOA), 2100 Second Street, SW, Washington, DC, 20593–0001. Marine employers must complete all data fields on the form.

(2) Form CG–5573 is reproduced in Appendix B of this part and you may obtain the form from any Marine Inspection Office. You may also download a copy of Form CG–5573 from the U.S. Coast Guard Marine Safety and Environmental Protection web site at http://www.uscg.mil/hq/g-m.html.

(3) A consortium or other employer representative may submit data for a marine employer. Reports may contain data for more than one marine employer. Each report, however, must list the marine employers included in the report.

(4) Marine employers must ensure that data submitted by a consortium or other employer representative under paragraph (b)(3) of this section is correct.

(c) After filing 3 consecutive annual MIS reports since January 1, 1996, required by paragraph (b) of this section, marine employers with 10 or fewer covered employees may stop filing the annual report each succeeding year during which they have no more than 10 covered employees.

(d) Marine employers that conduct operations regulated by another Department of Transportation Operating Administration must submit appropriate data to that Operating Administration for employees subject to its regulations.

Dated: December 7, 1998.

J.P. High,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–34135 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–15–P

Notices

Federal Register

Vol. 63, No. 247

Thursday, December 24, 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

Economic Research Service

Notice of Intent To Seek Approval To Collect Information

AGENCY: Economic Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub.L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the Economic Service's (ERS) intention to request Office of Management and Budget (OMB) approval for a new information collection of the study entitled ''Re-engineering the Welfare System.''

DATES: Comments on this notice must be received by February 22, 1999 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact David M. Smallwood, Deputy Director for Food Assistance Research, Food and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1800 M Street NW Room 2130, Washington, DC 20036–5831, 202–694–5466.

SUPPLEMENTARY INFORMATION:

Title: Study of Re-engineering the Welfare System.

Type of Request: Approval to collect information on the re-engineering of the welfare system.

Abstract: The proposed data collection will provide the Economic Research Service with descriptive data regarding the nature and extent of States' efforts to 're-engineer'' their State Food Stamp programs as a result of enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The study will collect and synthesize information describing State re-engineering efforts. Categories will include eligibility determination, operating procedures, client tracking and accountability systems, organizational structures, program monitoring, and changes in the role of the caseworker. The information will be collected in three stages. First, descriptive information will be collected from the Food Stamp Agencies in each of the 50 States and the District of Columbia through a written request for existing information regarding current and proposed re-engineering efforts occurring in the State. Second, follow-up telephone interviews will be conducted to clarify the documents provided by States and collect additional information, when necessary. Finally, six States will be selected for in-depth case studies to examine processes and methods used to plan and implement re-engineering efforts. These data will be collected for a qualitative analysis of planning and implementation issues, as well as descriptions of specific agency practices.

Estimates of Burden: Public reporting burden is estimated to average 60 minutes per State to review the initial request for materials, collect relevant materials, and mail them to the contractor. An additional 45 minutes will be required for telephone interviews to clarify materials and request additional information. In addition, in the six States selected for case studies, 90 minutes will be required for each key informant, on-site interview.

Respondents: State personnel responsible for overseeing State food stamp policy or their designee will respond to the initial request for written information. The same person will likely be responsible for responding to the follow-up telephone survey. State and local food stamp officials, as well as directors of private agencies involved in assisting the States re-engineering efforts, will repond to in-person interviews.

Estimated Number of Respondents: One or two State Food Stamp Program officials will respond from each of the 50 States and the District of Columbia to the initial request for written information and the follow-up telephone survey. Two State officials will be interviewed in those States where one official does not make policy decisions about all aspects of the Food Stamp Program's administration. An estimated 24 key informants will respond to the on-site interviews.

Estimated Total Annual Burden on Respondents: 125 hours. Copies of the information to be collected can be obtained from David M. Smallwood, Deputy Director for Food Assistance Research, Food and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1800 M Street NW Room 2130, Washington, DC 20036–5831, 202–694–5466.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to David M. Smallwood, Deputy Director for Food Assistance Research, Food and Rural Economics Division, Economic Research Service, U.S. Department of Agriculture, 1800 M Street NW Room 2130, Washington, DC 20036–5831 202–694–5466. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: November 30, 1998.

Betsey Kuhn,

Director, Food and Rural Economy Division.

[FR Doc. 98–34147 Filed 12–23–98; 8:45 am]

BILLING CODE 3410–18–M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Request for nominations of people to serve on the California Coast Provincial Advisory Committee.

SUMMARY: The interagency groups responsible for implementing the Northwest Forest Plan (NWFP) in the California Coast Province are seeking nominations for persons to fill two vacant positions on the California Coast Provincial Advisory Committee (CCPAC)—one to represent the large forest products industry, and one to represent the following interests: fish, wildlife or forestry organizations; mining interests, grazing interests, and commercial fishing or charter fishing boat industry; or other interests that help achieve the implementation of the NWFP.

SUPPLEMENTARY INFORMATION: The CCPAC works with federal agencies to implenment the NWFP on federal lands in the California Coast Province. The committee provides advice to the Province Interagency Executive Committee (PIEC) regarding implementation of a comprehensive ecosystem management strategy for federal lands within the province. While the boundary of the province includes whole river drainages for broad ecosystem planning, the purpose of the PAC is to assist in implementing the NWFP, which is limited to federal lands within the range of the northern spotted owl. Therefore, preference for positions on the committees will likely be to individuals most directly associated with those federal lands involved with the northern spotted owl. Advisory committee recommendations are not legally binding and will not supersede the legally established decision authority granted to the federal agencies involved. All advisory committee meetings are open to the public. Interested citizens may request time on the agenda to address the PAC. All papers and documents used by the committee, including meeting minutes, are available to the public.

Applicants must be United States citizens, at least 18 years old, and will be recommended for appointment based on their personal knowledge of local and regional resource issues, and understanding of public land uses and activities; willingness to work toward mutually beneficial solutions to complex issues; respect and credibility in local communities; and commitment to attending advisory committee meetings held for the province.

Advisory committee members must be willing to travel to meetings held throughout the province on two weekdays about every 10 weeks during the year. Members will serve without pay, but reimbursement of travel and per diem is allowed for attendance at meetings called by the Chairperson of the advisory committee.

DATES: The due date for receipt of the nominations is January 26, 1999.

FOR FURTHER INFORMATION CONTACT: Individuals with questions about the process or wishing to submit nominations for one of the positions should contact one of the following for a nomination packet: Daniel Chisholm, USDA, Forest Supervisory, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934–1100; or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (530) 934–3316; TTY (530) 934–7724; FAX (530) 934–7384.

Dated: December 16, 1998.

Daniel K. Chisholm,

Forest Supervisor

[FR Doc. 98–34181 Filed 12–23–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Gardin-Taco Ecosystem Restoration Projects, Colville National Forest, Pend Oreille and Stevens Counties, Washington

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) to analyze and disclose the environmental effects of proposed restoration projects including commercial timber harvest, pre-commercial thinning, prescribed fire, road construction, road reconstruction, road closures, road obliterations, range improvements, range allotment planning, and planting. All proposed projects are located on National Forest System lands in the Tacoma, Cusick, and Gardiner Creek watersheds of the Newport Ranger District. The proposal is in compliance with the 1988 Colville National Forest Land and Resource Management Plan as amended by the Regional Forester's amendments and the Inland Native Fish Strategy. These proposals are tentatively planned for implementation in fiscal years 1999 through 2004. The proposed project area is approximately 25 miles northwest of Newport, Washington.

DATES: Comments concerning the scope of the analysis should be received no later than January 15, 1999.

ADDRESSES: Send written comments concerning the management of this area to Robert L. Vaught, Forest Supervisor, 765 South Main, Colville, WA 99114, phone: 509–684–7000, fax: 509–684–7280 or to Dan Dallas, District Ranger, 315 North Warren, Newport, WA 99156 (phone: 509–447–7300; fax: 509–447–7301).

FOR FURTHER INFORMATION CONTACT: Nancy Glines, Interdisciplinary Team Leader, 315 North Warren, Newport, WA 99156 (phone: 509–447–7300, fax: 509–447–7301).

SUPPLEMENTARY INFORMATION: The proposed action includes commercial timber harvest, pre-commercial thinning, prescribed fire, road construction, road reconstruction, road closures, road obliteration, range improvements, allotment management planning, and planting. This project is not located in or adjacent to an inventoried roadless area.

Restoration of ecosystem function provides the underlying need for the project. The purpose is to restore ecosystem function wherever possible and to the greatest extent possible; to restore ecosystem form where function cannot be restored at this time; and to reduce adverse impacts where possible. When possible, we will accomplish these objectives with a commercial timber sale.

This project was initiated in January 1998. The Forest Service began the preparation of an environmental assessment including local public. This initial scoping yielded the following preliminary issues: roads and road management, noxious weeds, recreation use and U.S. Air Force use of the area, livestock uses, and vegetation management near streams.

The preliminary alternatives being considered are: (1) No action, (2) accomplishing the purpose and need with prescribed fire as the only tool, (3) accomplishing the purpose and need using all available tools, (4) accomplishing the purpose and need with special emphasis on minimizing the risk of the spread of noxious weeds, and with special mitigation for recreation users, (5) accomplishing the purpose and need while minimizing road construction, (6) accomplishing the purpose and need with no new road construction.

The Draft EIS should be available in February or March 1999, and the Final Environmental Impact Statement should be available in June or July 1999.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency

publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final EIS is scheduled to be completed in June or July 1999. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. The Responsible Official is Robert L. Vaught, Forest Supervisor, 765 South Main, Colville, WA 99114, phone: 509–684–7000, fax: 509–684–7280. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations, 36 CFR part 215.

Dated: December 14, 1998.

Robert L. Vaught,

Forest Supervisor, Colville National Forest.

[FR Doc. 98–34094 Filed 12–23–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Goodenough Vegetation Management Project; Caribou National Forest, Bannock County, ID

AGENCY: Forest Service.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service will prepare an Environmental Impact Statement to document the analysis and disclose the environmental impacts of proposed actions to thin timber stands in the Goodenough and Mormon Canyons on the Westside Ranger District of the Caribou National Forest. The need for the proposal is to improve the condition of the vegetation and maintain other resource values. The trees in these standards are growing too close together, forcing them to compete for sunlight, moisture and nutrients. Thinning the live trees will free up needed moisture, nutrients and sunlight for the remaining trees which will allow them to better resist insect attacks and improve the condition of the vegetation. Opening up these stands and removing some of the merchantable dead trees will help reduce large wildfire potential and create stand conditions which better approximate timber stand conditions before fire prevention was practiced.

The Westside Ranger District of the Caribou National Forest proposes to thin stands of trees on the north facing slopes of Goodenough and Mormon Canyons. Commercial and precommercial thinning will be used to improve stand conditions and salvage high risk trees. Approximately 26 stands are proposed for treatment on approximately 500 acres. Because of steep slopes and identified resource concerns, helicopters will be used for commercial thinning, and hand crews will be used for precommerical thinning. No new roads are planned, although there may be some improvement to switchbacks on the existing road. Best Management Practices, Caribou Land and Resource Management Plan ''Standards and Guides'', and current management direction will be met during project implementation.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received by January 25, 1999.

ADDRESSES: Send written comments to Caribou National Forest, Westside Ranger District, 250 South Fourth Ave., Federal Building Suite 187, Pocatello, Idaho 83201.

FOR FURTHER INFORMATION: Questions concerning the proposed action and EIS should be directed to Michele Lawson, Project Leader, or Jerald Tower, Westside District Ranger, Caribou National Forest (Telephone: (208) 236–7500).

SUPPLEMENTARY INFORMATION: This EIS will tier to the final EIS for the Caribou National Forest Land and Resource Management Plan (Forest Plan). The Caribou National Forest Plan provides the overall guidance (Goals, Objectives, Standards, and Management Area direction) to achieve the Desired Future condition for the area being analyzed and contains specific management area prescriptions for the entire Forest. The current management prescription for the area is water yield. During the analysis it will be determined if the current management prescription is appropriate or if a different prescription is more appropriate.

Possible alternatives to the proposal are not to treat any timber stands or to treat only some of the stands at this time.

Public scoping letters have been sent to individuals, and published in the Idaho State Journal. Initial scoping comments indicated concerns about the project's impacts on water quality and roadless area characteristics. At this time, no public scoping meetings have been planned.

Preliminary issues and concerns identified to date are:

1. The proposed project is located in the Scout Mountain Roadless Area, #04152. The environmental analysis will need to determine how the proposed action may affect existing roadless characteristics.

2. Beneficial uses must be protected and regulatory water quality standards met.

3. Damage to existing roads in the project area could occur from logging truck traffic.

4. The project may affect wildlife habitat.

5. Snag and potential snags should be retained for cavity dependent species.

6. Without treatment, timber stands may have increased insects and disease occurrence.

7. The project proposal may affect timber stand productivity.

8. The project proposal may affect timber stand vigor.

9. The project proposal may affect how wildfires will burn through the project area.

10. The project proposal may not be physically feasible due to the existing terrain.

11. The project proposal may not be economically feasible for helicopter logging.

12. Project proposal needs to address the safety of recreational users during the timber harvest.

13. Project proposal may increase the potential for avalanche damage to resources.

A Biological Assessment of threatened, endangered and proposed species will be completed as part of the environmental analysis. A Biological Evaluation will be completed as part of the environmental analysis and documented in the EIS.

A Cultural Resource Survey of the area will be completed as part of the environmental analysis, and any cultural resources found would be protected.

No permits or licenses are required to implement the proposed action.

The tentative date for filing the Draft EIS is May 1999. The tentative date for filing the final EIS is August 1999. The comment period on the draft environmental impact statement will be open for 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC,* 435 U.S. 519, 553 (1978). Also environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period of the Draft Environmental Impact Statement so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final Environmental Impact Statement. Agency representatives and other interested people are invited to visit with Forest Service officials at any time during the EIS process.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments the Draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft. Comments may also address the adequacy of the Draft Environmental Impact Statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The USDA, Forest Service is the lead agency in preparing the Environmental Impact Statement for this proposal. The responsible official is Jerry B. Reese, Forest Supervisor, Caribou National Forest, 250 South Fourth Avenue, Federal Building, Pocatello, ID 83201.

Dated: December 14, 1998.

Jerry B. Reese,

Forest Supervisor, Caribou National Forest.

[FR Doc. 98–34176 Filed 12–23–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Committee of Scientists Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Committee of Scientists will hold a public teleconference call on Thursday, January 7, 1999. The teleconference call will begin at 12 p.m. and end at 4 p.m. (eastern standard time). The purpose of the telephone conference call is for the Committee of Scientists to continue discussion of its report and recommendations to the Secretary of Agriculture and the Chief of the Forest Service. The public is invited to attend this teleconference call and may be provided an opportunity to comment on the Committee of Scientists' deliberations during the teleconference, only at the request of the Committee.

DATES: The teleconference call will be held on Thursday, January 7, 1999, from 12 p.m. to 4 p.m. (eastern standard time).

ADDRESSES: The teleconference will be held at the USDA Forest Service headquarters, Auditor's Building, 201 14th Street, SW., Washington, DC, in the Roosevelt Conference Room and at all Regional Offices of the Forest Service, which are listed in the table under Supplementary Information.

Written comments on improving land and resource management planning may be sent to the Committee of Scientists, PO Box 2140, Corvallis, OR 97339. Also, the Committee may be accessed via the Internet at www.cof.orst.edu./org/scicomm/.

FOR FURTHER INFORMATION CONTACT: For additional information concerning the teleconference, contact Bob Cunningham, Designated Federal Official to the Committee of Scientists, by telephone (202) 205–1523.

SUPPLEMENTARY INFORMATION: The public may attend the teleconference at the following field locations:

USDA FOREST SERVICE REGIONAL OFFICE LOCATIONS

Region 1—Northern Region	Federal Building, 200 E Broadway	Missoula, MT
Region 2—Rocky Mountain Region	740 Simms St	Golden, CO
Region 3—Southwestern Region	Federal Building, 517 Gold Ave., SW	Albuquerque, NM
Region 4—Intermountain Region	Federal Building, 324 25th St	Ogden, UT
Region 5—Pacific Southwest Region	630 Sansome St	San Francisco, CA
Region 6—Pacific Northwest Region	333 SW 1st Ave	Portland, OR
Region 8—Southern Region	1720 Peachtree Rd. NW	Atlanta, GA
Region 9—Eastern Region	310 W. Wisconsin Ave., Room 500	Milwaukee, WI
Region 10—Alaska Region (office will open early)	Federal Office Building, 709 W. 9th St	Juneau, AK

The Committee of Scientists was chartered to provide scientific and technical advice to the Secretary of Agriculture and the Chief of the Forest Service on improvements that can be made to the National Forest System land and resource management planning process (62 FR 43691; August 15, 1997). Notice of the names of the appointed Committee members was published December 16, 1997 (62 FR 65795).

Dated: December 18, 1998.

Randle G. Phillips,

Acting Deputy Chief for National Forest System.

[FR Doc. 98–34108 Filed 12–23–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 981211304–8304–01]

Annual Survey of Communication Services

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of Determination.

SUMMARY: In accordance with Title 13, United States Code, Sections 182, 224, and 225, I have determined that 1998 total operating revenue and expenses are needed for the telephone, radio and television broadcasting, cable and pay television, and other communication services industries to provide a sound statistical basis for the formation of policy by various governmental agencies, and that these data also apply to a variety of public and business needs. These data are not publicly available from nongovernment or other governmental sources.

FOR FURTHER INFORMATION CONTACT: Ruth A. Bramblett, Chief, Current Services Branch, Service Sector Statistics Division, on (301) 457–2766.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to conduct surveys necessary to furnish current data on subjects covered by the major censuses authorized by Title 13, United States Code. This survey will provide continuing and timely national statistical data on communication services for the period between economic censuses. The next economic census is in 2002. This survey will yield 1998 estimates for the aforementioned industries. The data collected in this survey will be within the general scope and nature of those inquiries covered in the economic censuses.

The Census Bureau needs reports from only a limited sample of communication firms in the United States. The probability of a firm's selection is based on revenue size (estimated from payroll). The sample will provide, with measurable reliability, national level statistics on total operating revenue and expenses for these industries. We will mail report forms to the firms covered by this survey and require their submission within 30 days after receipt.

This survey has been approved by the Office of Management and Budget (OMB), under OMB Control Number 0607–0706, in accordance with the Paperwork Reduction Act, Public Law 104–13. We will provide copies of the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

Based upon the foregoing, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: December 14, 1998.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 98–34141 Filed 12–23–98; 8:45 am]

BILLING CODE 3510–07–U

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 981211302–8302–01]

Service Annual Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of Determination.

SUMMARY: In accordance with Title 13, United States Code, Sections 182, 224, and 225, I have determined that 1998 data on total receipts and total revenue and expenses for selected service industries are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data also apply to a variety of public and business needs. Selected service industries include personal, business, automotive, repair, amusement, health, social, and other professional service industries. These data are not publicly available from nongovernment or other governmental sources.

FOR FURTHER INFORMATION CONTACT: Ruth A. Bramblett, Chief, Current Services Branch, Service Sector Statistics Division, on (301) 457–2766.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to conduct surveys necessary to furnish current data on subjects covered by the major censuses authorized by Title 13, United States Code. This survey will provide continuing and timely national statistical data on selected service industries for the period between economic censuses. The next economic census is in 2002. This survey will yield 1998 estimates for the aforementioned industries. The data collected in this survey will be within the general scope and nature of those inquiries covered in the economic censuses.

The Census Bureau needs reports from only a limited sample of service firms in the United States. The probability of a firm's selection is based on receipts or revenue size (estimated from payroll). The sample will provide, with measurable reliability, national level statistics on receipts of taxable firms and revenue and expenses of firms and organizations exempt from federal income taxes. We will mail report forms to the firms covered by this survey and require their submission within 30 days after receipt.

This survey has been approved by the Office of Management and Budget (OMB), under OMB approval Control Number 0607–0422, in accordance with the Paperwork Reduction Act, Pub. L. 104–13. We will provide copies of the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

Based upon the foregoing, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: December 14, 1998.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 98–34140 Filed 12–23–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 981211303–8303–01]

Transportation Annual Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of Determination.

SUMMARY: In accordance with Title 13, United States Code, sections 182, 224, and 225, I have determined that 1998 operating revenue and total operating expenses are needed for the for-hire trucking industry, and total operating revenues are needed for public warehousing industries to provide a sound statistical basis for the formation of policy by various governmental agencies, and that these data also apply to a variety of public and business

needs. These data are not publicly available from nongovernment or other governmental sources.

FOR FURTHER INFORMATION CONTACT: Ruth A. Bramblett, Chief, Current Services Branch, Services Sector Statistics Division, on (301) 457–2766.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to conduct surveys necessary to furnish current data on subjects covered by the major censuses authorized by Title 13, United States Code. This survey will provide continuing and timely national statistical data on trucking and warehousing services for the period between economic censuses. The next economic census is in 2002. This survey will yield 1998 estimates for the aforementioned industries. The data collected in this survey will be within the general scope and nature of those inquiries covered in the economic censuses.

The Census Bureau needs reports from only a limited sample of trucking and warehousing firms in the United States. The probability of a firm's selection in this sample is based on revenue size (estimated from payroll). The sample will provide, with measurable reliability, national level statistics on total revenue and total operating expenses for the for-hire trucking industry, as well as total operating revenue for public warehousing. We will mail report forms to the firms covered by this survey and require their submission within 30 days after receipt.

This survey has been approved by the Office of Management and Budget (OMB), under OMB Control Number 0607–0798, in accordance with the Paperwork Reduction Act, Pub. L. 104–13. We will provide copies of the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

Based upon the foregoing, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: December 14, 1998.

Kenneth Prewitt,

Director, Bureau of the Census.

[FR Doc. 98–34139 Filed 12–23–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[A–122–822 A–122–823]

International Trade Administration

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Notice of Extension of Final Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of extension of time limits for final results of antidumping duty administrative review

EFFECTIVE DATE: December 24, 1998.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Thomas Gilgunn, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0666 and (202) 482–0648, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (1998).

Extension of Time Limits for Final Results

The Department of Commerce has received a request to conduct an administrative review of the antidumping duty order on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. On September 25, 1997 (62 FR 50292), the Department initiated this antidumping administrative review covering the period August 1, 1996 through July 31, 1997.

Because these cases involve a number of complex issues and the Department must review data and comments recently placed on the record, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the final results to January 2, 1999. See ''Extension of Time Limit for the Review of Certain Corrosion-Resistant Carbon Steel Plate Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada.'' This extension of time limits is in accordance with section 751(a)(3)(A) of the Act.

Dated: December 17, 1998.

Roland MacDonald,

Acting Deputy Assistant Secretary for AD/CVD Enforcement III

[FR Doc. 98–34157 Filed 12–23–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

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

Docket Number: 98–064. *Applicant:* University of Colorado, P.O. Box 173364, Denver, CO 80217. *Instrument:* Ammonia Flux Analyzer, Model AMANDA–100. *Manufacturer:* ECN Fuels, The Netherlands. *Intended Use:* The instrument is intended to be used for the study of ammonia exchange fluxes and the comparison of deciduous forest exchange with coniferous forest exchange. *Application accepted by Commissioner of Customs:* November 30, 1998.

Docket Numbers: 98–065 and 98–066. *Applicant:* Montana State University, Physics Department, EPS Building, Bozeman, MT 59717–3840. *Instrument:* (2) Optical Helium Cryostats. *Manufacturer:* Institute of Physics, Ukraine, CIS. *Intended Use:* These instruments are both replacements for an optical helium cryostat previously entered free of duty to be used to perform both spectroscopic and holographic experiments and various combinations thereof. These experiments will involve the study of (1) crystalline and polymeric dye-doped materials which show complicated photochemical transformation behavior

at low temperatures and (2) the dependence of these processes on temperature and on the illumination conditions. *Applications accepted by Commissioner of Customs:* November 30, 1998.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–34158 Filed 12–23–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration,

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Decision of Panel.

SUMMARY: On December 4, 1998 the binational panel issued its decision in the review of the final antidumping determination made by the U.S. International Trade Administration, in the matter of Gray Portland Cement and Clinker from Mexico, NAFTA Secretariat File Number USA–97–1904–02. The panel affirmed the final determination in all respects with one panelist concurring in part and dissenting in part. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter has been conducted in accordance with these Rules.

BACKGROUND: On May 8, 1997, Cemex, S.A. de C.V. filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. The panel reviewed the complaints, briefs and other documents and heard oral argument in this matter.

PANEL DECISION: The panel affirmed the final determination of the International Trade Administration on all issues raised by the complainants in their briefs. One panelist wrote a separate opinion concurring in part and dissenting in part in the panel's final decision.

Dated: December 11, 1998.

James R. Holbein,

U.S. Secretary.

[FR Doc. 98–34090 Filed 12–23–98; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121898B]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: The meetings will be held on January 11–15, 1999.

ADDRESSES: These meetings will be held at the Isle of Capri Crowne Plaza Hotel, 151 Beach Boulevard, Biloxi, MI; telephone:

228–435–5400.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION:

Council

January 13, 1999

1:30 p.m.—Convene.

1:45 p.m. - 6:00 p.m.—Receive public testimony on the Draft Sustainable Fisheries Act (SFA) Amendment and Draft Gag Regulatory Amendment Options Paper. The SFA Amendment includes alternative management measures for reporting of bycatch by Gulf fishermen, for minimizing bycatch or bycatch mortality, for specifying higher standards for overfishing criteria that will restore fishery stocks to maximum sustainable yield (MSY), for rebuilding periods for overfished stocks (e.g., red snapper, king mackerel, and red drum) and a section identifying communities economically dependent on fishing. The Gag Amendment includes alternatives for specification of a total allowable catch (TAC) for gag; minimum size limit increase for gag and black grouper from 20 to 24 inches total length; a 2–fish recreational bag limit for gag as part of the existing 5 aggregate grouper bag limit; a zero bag limit of gag for the captain and crew of for-hire vessels; a commercial trip limit for gag; a closed season during peak gag spawning; and area closures at gag spawning aggregation locations.

January 14, 1999 8:30 a.m. - 10:30 a.m.—Take final action on the Draft SFA Amendment.

10:30 a.m. - 3:00 p.m.—Receive the Reef Fish Management Committee Report.

3:00 p.m. - 5:00 p.m.—Receive the Migratory Species Management Committee Report.

January 15, 1999

8:30 a.m. - 9:30 a.m.—Receive the Habitat Protection Committee Report.

9:30 a.m. - 10:15 a.m.—Receive the Shrimp Management Committee Report.

10:15 a.m. - 10:30 a.m.—Receive the Joint Shrimp/Reef Fish Management Committee Report.

10:30 a.m. - 10:45 a.m.—Receive the Council Chairmen's Meeting Report.

10:45 a.m. - 11:00 a.m.—Receive Enforcement Reports.

11:00 a.m. - 11:15 a.m.—Receive the South Atlantic Fishery Management Council (SAFMC) Liaison Report.

11:15 a.m. - 11:45 a.m.—Receive Director's Reports.

11:45 a.m. - 12:00 noon—Other Business.

Under other business, the Council may consider proposals for dolphin and wahoo management recently adopted by the South Atlantic Fishery Management Council (SAFMC). The Council will also hear reports and respond to a National Oceanic and Atmospheric Administration (NOAA) letter.

Committees

January 11, 1999

1:00 p.m. - 5:00 p.m.—Convene the Migratory Species Management

Committee to review and develop comments on a highly migratory species (HMS) fishery management plan (FMP) and Billfish FMP amendment developed by NMFS.

January 12, 1999

8:00 a.m. - 11:30 a.m.—Convene the Ad Hoc SFA Committee to review the draft SFA amendment. The Committee will develop their recommendations to the Council for final action on the amendment. The recommendations will be considered by the Council on Thursday, January 14, 1999.

12:30 p.m. - 5:30 p.m.—Convene the Reef Fish Management Committee to review the draft Gag Regulatory Amendment Options Paper and develop recommendations to the Council for final action. They will review the Amendment 17 Options Paper which has alternatives for a license limitation program for reef fish. They will also receive a status report on the emergency red snapper rule, and may discuss actions taken under the emergency red snapper rule.

January 13, 1999

8:00 a.m. - 11:00 a.m.—Convene the Shrimp Management Committee to review the analyses of NMFS and Texas Parks and Wildlife Department (TPWD) and develop their recommendations to Council on the 1999 Texas Closure. They will also review Amendment 10 Options Paper which contains alternatives for permitting or registration of vessels, observer requirements and protocol, and a vessel monitoring system.

11:00 a.m. - 12:30 noon—Convene the Habitat Protection Committee to review a proposed development project for constructing a casino in wetlands and a NMFS study on mitigation.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by January 5, 1999.

Dated: December 21, 1998.

Richard W. Surdi,

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

[FR Doc. 98–34161 Filed 12–23–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121598H]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Highly Migratory Species (HMS) Policy Committee will hold a public meeting.

DATES: The meeting will be held from 10:00 a.m. to 5:00 p.m. on Tuesday, January 26, 1999.

ADDRESSES: The meeting will be held at the U.S. Tuna Foundation, One Tuna Lane, San Diego, CA.

Council address: Pacific Fishery Management Council, 2130 SW. Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Six, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to prepare Council recommendations for the next session of the Multilateral High Level conference on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central pacific to be held February 10–19, 1999 in Honolulu, HI.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in the agenda as listed in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the work session date.

Dated: December 18, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–34159 Filed 12–23–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121598D]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (work session).

SUMMARY: The Pacific Fishery Management Council's Salmon Subcommittee of the Scientific and Statistical Committee (Salmon Subcommittee) will hold a work session which is open to the public.

DATES: The work session will be held from 1:00 to 5:00 p.m. on Tuesday, January 19, 1999.

ADDRESSES: The work session will be held in the Director's Conference Room (fourth floor) at the Oregon Department of Fish and Wildlife, 2501 SW. First Avenue, Portland, OR.

Council address: Pacific Fishery Management Council, 2130 SW. Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Seger, Economic Analysis Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the Salmon Subcommittee work session is to review proposed changes in salmon estimation methodologies for the 1999 season. The proposed changes include (1) minor modifications to the chinook Fishery Regulation and Assessment Model to better estimate impacts on certain Puget Sound chinook stocks and (2) scaling of Oregon coastal natural coho spawner estimates to stratified random sampling data. The recommendations of the Salmon Subcommittee will be reviewed by the full Scientific and Statistical Committee before final comments are developed for presentation to the Council at its March 1999 meeting in Portland, OR.

Although other issues not contained in this agenda may come before this Subcommittee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management

Act, those issues may not be the subject of formal action during this work session. Actions will be restricted to those issues specifically identified in the agenda as listed in this notice.

Special Accommodations

The work session is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the work session date.

Dated: December 18, 1998.

Bruce C. Morehead,

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

[FR Doc. 98–34160 Filed 12–23–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Application of the Chicago Board of Trade for Designation as a Contract Market in PJM Western Hub Electricity Futures and Options, Submitted Under Fast Track Review Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in PJM (Pennsylvania—New Jersey—Maryland) Western Hub electricity futures and options on futures contracts. The proposals were submitted under the Commission's 45-day fast track procedures. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before January 8, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the CBT PJM Western Hub electric futures and options on futures contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Joseph Storer of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, telephone (202) 418–5282. Facsimile number: (202) 418–5527. Electronic mail: *jstorer@cftc.gov*

SUPPLEMENTARY INFORMATION: The designation applications were submitted pursuant to the Commission's fast track procedures for streamlining the review of futures contract rule amendments and new contract approvals (62 FR 10434). Under those procedures, the proposals, absent any contract action by the Commission, may be deemed approved at the close of business on January 25, 1999, 45 days after receipt of the proposals. In view of the limited review period provided under the fast track procedures, the Commission has determined to publish for public comment notice of the availability of the terms and conditions for 15 days, rather than 30 days as provided for proposals submitted under the regular review procedures.

Copies of the proposed terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the internet on the CFTC website at *www.cftc.gov* under ''What's New & Pending''.

Other materials submitted by the CBT in support of the applications may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposals, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on December 17, 1998.

John R. Mielke,

Acting Director.

[FR Doc. 98–33892 Filed 12–23–98; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Applications of the Kansas City Board of Trade for Designation as a Contract Market in Futures and Options on Internet Stock Price Index ''ISDEX®''

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and options contracts.

SUMMARY: The Kansas City board of Trade (KCBT or Exchange) has applied for designation as a contract market in Internet Stock Price Index ''ISDEX®'' futures and option contracts. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before January 25, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 1155 21st Street NW, Three Lafayette Centre, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the KCBT Internet Stock Price Index ''ISDEX®'' futures and options contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Thomas Leahy of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, 20581, telephone (202) 418–5278. Facsimile number: (202) 418–5527. Electronic mail: tleahy@cftc.gov.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of

the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the KCBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the KCBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on December 17, 1998.

John R. Mielke,

Acting Director.

[FR Doc. 98–33891 Filed 12–23–98; 8:45 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, January 7, 1999.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Bunk Beds

The staff will brief the Commission on a draft Notice of Proposed Rulemaking (NPR) for bunk beds.

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.

Date: December 21, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–34339 Filed 12–22–98; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Reinstatement of Small Business Set-Asides and Unrestricted Competition for Certain Acquisitions Under the Small Business Competitiveness Demonstration Program

AGENCY: Department of Defense (DoD).

ACTION: Notice of reinstatement of small business set-asides and unrestricted competition under the Small Business Competitiveness Demonstration Program.

SUMMARY: The Director of Defense Procurement has reinstated the use of small business set-aside procedures for certain construction acquisitions conducted by the Departments of the Army and Navy. Included in the reinstatement are solicitations issued under Standard Industrial Classification (SIC) Major Group 16 (Army and Navy) and SIC Code 1791 (Navy only). The Director of Defense Procurement has also reinstated the use of unrestricted competition for certain construction acquisitions conducted by the Departments of the Army and Navy and non-nuclear ship repair acquisitions conducted by the Navy. Included in the reinstatement are solicitations issued under SIC Major Group 15 (Army and Navy) and SIC Code 3731 (Navy only).

EFFECTIVE DATE: December 11, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Sipple, PDUSD (A&T), Director of Defense Procurement, Contract Policy and Administration, Room 3C838, 3060 Defense Pentagon, Washington, DC 20301–3060, telephone (703) 695–8567.

SUPPLEMENTARY INFORMATION: The Office of Federal Procurement Policy and the Small Business Administration issued a revised interim policy directive and test plan on September 29, 1998 (63 FR 51981), for the Small Business Competitiveness Demonstration Program. The program is further implemented in Subpart 19.10 of the Federal Acquisition Regulation (FAR) and Subpart 219.10 of the Defense FAR Supplement (DFARS).

Under the program, small business set-asides were initially suspended for certain designated industry groups. Agencies are required by paragraphs III.D.2.a. and IV.A.3. of the interim policy directive and test plan to reinstate the use of small business set-asides whenever the small business awards under any designated industry group fall below 40 percent or whenever small business awards under an individual SIC Code or Service Code within the designated industry group fall below 35 percent. Reinstatement is to be limited to the organizational elements that failed to meet the small business participation goals. Agencies are required by paragraphs III.D.2.b. and IV.A.3. of the interim policy directive and test plan to reinstate the use of unrestricted competition upon determining, after an annual review, that their contract awards to small business concerns again meet the required goals.

For the 12 months ending September 1998, DoD awards in SIC Major Group 16 fell below the 40 percent goal. Accordingly, pursuant to DFARS 219.1006(b)(2), the Director of Defense Procurement has directed the reinstatement of small business set-aside procedures pursuant to FAR Subpart 19.5 for all solicitations issued on or after December 11, 1998, or as soon thereafter as practicable, for:

Construction, SIC Major Group 16—All Army and Navy Activities

For the 12 months ending September 1998, DoD awards in SIC Major Group 15 and SIC Code 3731 meet the required small business goal of 40 percent. Accordingly, the Director of Defense Procurement has directed the reinstatement of unrestricted competition for all solicitations issued on or after December 11, 1998, or as soon thereafter as practicable, for:

Construction, SIC Major Group 15—All Army and Navy Activities

Non-Nuclear Ship Repair, SIC Code 3731—All Navy Activities

Consistent with the revised interim policy directive and test plan, this reinstatement of set-asides and unrestricted competition will be reviewed annually for continuation. The reinstatement of small business set-asides for SIC code 1791 for all Navy activities remains in effect (memorandum dated September 2, 1998; 63 FR 49094, September 14, 1998). The departmentwide reinstatement of small business set-aside procedures for the designated industry group titled ''Architectural and Engineering Services'' remains in effect

(memorandum dated September 30, 1991).

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 98–34153 Filed 12–23–98; 8:45 am]

BILLING CODE 5000–04–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meeting

Pursuant to the provision of the ''Government in the Sunshine Act'' (5 U.S.C. § 552b), notice is hereby given of the Defense Nuclear Facilities Safety Board's (Board) meeting described below.

TIME AND DATE OF MEETING: 9:00 a.m., February 3, 1999.

PLACE: The Defense Nuclear Facilities Safety Board, Public Hearing Room, 625 Indiana Avenue, NW, Suite 300, Washington, DC 20004.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Defense Nuclear Facilities Safety Board will convene the ninth quarterly briefing regarding the status of progress of the activities associated with the Department of Energy's Implementation Plans for the Board's Recommendation 95–2, *Integrated Safety Management* (''ISM'') and Recommendation 93–3, *Improving DOE Technical Capability in Defense Nuclear Facilities Programs.* Discussions will include overall ISM implementation status and DOE's response to the Board's March 20, 1998, letter on feedback and improvement programs. Feedback and improvement discussions will focus on acceleration of DOE Policy 450.5, improving the tracking and follow up and lessons learned processes, and implementation of the Functions, Responsibilities, and Authorities Manual (FRAM). DOE will also address Recommendation 93–3 implementation progress, and how DOE's response to this Recommendation is satisfying implementation of Recommendation 95–2, subrecommendation 5.

CONTACT PERSON FOR MORE INFORMATION: Richard A. Azzaro, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004, (800) 788–4016. This is a toll-free number.

SUPPLEMENTARY INFORMATION: The Defense Nuclear Facilities Safety Board reserves its right to further schedule and otherwise regulate the course of this meeting, to recess, reconvene, postpone or adjourn the meeting, and otherwise exercise its authority under the Atomic Energy Act of 1954, as amended.

Dated: December 22, 1998.

John T. Conway,

Chairman.

[FR Doc. 98–34296 Filed 12–22–98; 8:45 am]

BILLING CODE 3670–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

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

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 11, 1999. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before February 22, 1999.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Pat Sherrill@ed.gov*, or should be faxed to 202–708–9346.

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 Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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 Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED 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 respondents, including through the use of information technology.

Dated: December 21, 1998.

Kent H. Hannaman,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Application for Anytime Anywhere Partnership (New Grant).

Abstract: The Learning Anytime Anywhere Partnerships is a new grant competition. The information collected will be used by outside reviewers and Department of Education staff to select grant recipients. It is expected that comments will be received from college and university faculty and administrators, higher education associations, software developers and publishers, industry training groups and

other interested organizations and individuals.

Additional Information: This emergency notice is needed to provide funds in a timely manner this fiscal year and to give grantees ample time to complete the application. The normal 60-day comment period for discretionary grants would not be feasible as it would result in a significant delay in awarding grants.

Frequency: Annually.

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

Reporting and Recordkeeping Burden:

Responses: 500.

Burden Hours: 9,000.

[FR Doc. 98–34142 Filed 12–23–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Recognition of Accrediting Agencies, State Agencies for Approval of Public Postsecondary Vocational Education, and State Agencies for Approval of Nurse Education

AGENCY: Department of Education.

ACTION: Request for Comments on Agencies applying to the Secretary for Renewed Recognition.

DATES: Commenters should submit their written comments by February 8, 1999, to the address below.

FOR FURTHER INFORMATION CONTACT: Karen W. Kershenstein, Director, Accreditation and Eligibility Determination Division, U.S. Department of Education, 600 Independence Avenue, SW, Room 3915 ROB–3, Washington, DC 20202–5244, telephone: (202) 708–7417. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m., Eastern time, Monday through Friday.

SUBMISSION OF THIRD-PARTY COMMENTS: The Secretary of Education recognizes, as reliable authorities as to the quality of education offered by institutions or programs within their scope, accrediting agencies and State approval agencies for public postsecondary vocational education and nurse education that meet certain criteria for recognition. The purpose of this notice is to invite interested third parties to present written comments on the agencies listed in this notice that have applied for continued recognition. A subsequent **Federal Register** notice will announce the meeting and invite individuals and/or groups to submit requests for oral presentation before the National Advisory Committee on Institutional Quality and Integrity (the ''Advisory Committee'') on the agencies being reviewed. That notice, however, does not constitute another call for written comment. This notice is the only call for written comment.

All comments received in response to this notice will be reviewed by Department staff as part of its evaluation of the agencies' compliance with the Secretary's Criteria for Recognition. In order for Department staff to give full consideration to the comments received and to address them in the staff analyses that will be presented to the Advisory Committee at its May 1999 meeting, the comments must arrive at the address listed above not later than February 8, 1999, with the exception of the comments for the American Bar Association, Council of the Section of Legal Education and Admissions to the Bar, for which the deadline for receiving comments is March 1, 1999 since the agency's interim report is not due into the Department until February 15, 1999. Comments received after the specified deadlines will be reviewed by Department staff, which will take action, as appropriate, either before or after the meeting, should the comments suggest that an accrediting agency is not acting in accordance with the Secretary's Criteria for Recognition.

All comments must relate to the Secretary's Criteria for the Recognition of Accrediting Agencies. Comments pertaining to agencies whose interim reports will be reviewed must be restricted to the concerns raised in the Secretary's letter for which the report is requested.

The Advisory Committee advises the Secretary of Education on the recognition of accrediting agencies and State approval agencies. The Advisory Committee is scheduled to meet May 11–13, 1999 in Washington, DC. All written comments in response to this notice that are received by the Department by the specified deadlines will be considered by both the Advisory Committee and the Secretary. Comments received after the specified deadlines, as indicated previously, will be reviewed by Department staff, which will take follow-up action, as appropriate, either before or after the meeting. Commenters whose comments are received after the deadline will be notified by staff of the disposition of those comments.

The following agencies will be reviewed during the May 1999 meeting of the Advisory Committee:

Nationally Recognized Accrediting Agencies

Petitions for Renewal of Recognition—

1. Association of Theological Schools in the United States and Canada, Commission on Accrediting (Current scope of recognition: The accreditation and preaccreditation (''Candidate for Accredited Status'') of freestanding institutions, as well as programs affiliated with larger institutions, that offer graduate professional education for ministry and graduate study of theology).

2. Council on Naturopathic Medical Education (requested scope of recognition: The accreditation and preaccreditation (''Candidate for Accreditation'') of institutions and graduate programs in Naturopathy that lead to the degree of Doctor of Naturopathy (N.D.) or Doctor of Naturopathic Medicine (N.M.D.).

3. Montessori Accreditation Council for Teacher Education, Commission on Accreditation (requested scope of recognition: the accreditation of Montessori teacher education institutions and programs evaluated by the following review Committees: The American Montessori Society Review Committee and the Independent Review Committee).

4. Middle States Association of Colleges and Schools, Commission on Secondary Schools (requested scope of recognition: The accreditation and preaccreditation (''Candidate for Accreditation'') of public vocational/technical schools offering non-degree, postsecondary education in Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the Virgin Islands).

5. Western Association of Schools and Colleges, Accrediting Commission for Schools (requested scope of recognition: the accreditation and preaccreditation (''Candidate for Accreditation'') of adult and postsecondary schools that offer programs below the degree level in California, Hawaii, the United States territories of Guam and American Samoa, the Republic of Palau, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands).

Interim Reports (An interim report is a follow-up report on an accrediting agency's compliance with specific criteria for recognition that was requested by the Secretary when the Secretary granted renewed recognition to the Agency)—

1. American Bar Association, Council of the Section of Legal Education and Admissions to the Bar.

2. Accreditation Board for Engineering and Technology, Inc.

3. Accrediting Council for Continuing Education and Training.

4. American Optometric Association, Council on Optometric Education.

5. Council on Occupational Education.

6. National Association of Schools of Art and Design, Commission on Accreditation.

7. National Association of Schools of Dance, Commission on Accreditation.

8. National Association of Schools of Music, Commission on Accreditation, Commission on Non-Degree-Granting Accreditation, Commisson on Community/Junior College Accreditation.

9. National Association of Schools of Theatre, Commisson on Accreditation.

10. North Central Association of Colleges and Schools, Commission on Institutions of Higher Education.

11. New England Association of Schools and Colleges, Commission on Technical and Career Institutions.

12. New England Association of Schools and Colleges, Commission on Institutions of Higher Education.

13. Northwest Association of Schools and Colleges, Commission on Colleges.

14. Southern Association of Colleges and Schools, Commission on Colleges.

15. Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges.

State Agency Recognized for the Approval of Public Postsecondary Vocational Education

Petitions for Renewal of Recognition

1. Missouri State Board of Education.

State Agencies Recognized for the Approval of Nurse Education

Petitions for Renewal of Recognition

1. Missouri State Board of Nursing.

2. New Hampshire Board of Nursing.

Public Inspection of Petitions and Third-Party Comments

All petitions and interim reports, and those third-party comments received in advance of the meetng, will be available for public inspection in copying at the U.S. Department of Education, ROB–3, Room 3915, 7th and D Streets, SW, Washington, DC 20202–5244, telephone (202) 708–7417 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, until April 15, 1999. They will be available again after the May 11–13 Advisory Committee meeting. It is preferred that an appointment be made in advance of such inspection or copying.

Greg Woods,

Chief Operating Officer Office of Student Financial Assistance Programs.

[FR Doc. 98–34101 Filed 12–23–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket No. FE C&E 98–10—Certification Notice—165]

The City of Tallahassee; Notice of Filing of Coal Capability Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy Department of Energy.

ACTION: Notice of filing.

SUMMARY: On December 2, 1998, the City of Tallahassee submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G–039, FE–27, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of the proposed new baseload powerplant has filed a self-certification in acccordance with section 201(d).

Owner: City of Tallahassee.

Operator: City of Tallahassee.

Location: City of St. Marks, Florida.

Plant Configuration: Base load combined-cycle generating facility (combustion turbine/generator, unfired heat recovery steam generator and a steam turbine/generator).

Capacity: 247 megawatts.

Fuel: Natural gas.

Purchasing Entities: The plant will be directly interconnected with the City of Tallahassee's electric system. The net electricity generated by the Plant will be utilized by the City of Tallahassee.

In-Service Date: May 15, 2000.

Issued in Washington, DC, December 17, 1998.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 98–34146 Filed 12–23–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

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

DATES:

Thursday, February 11, 1999: 9 a.m.–5 p.m.

Friday, February 12, 1999: 8:30 a.m.–4 p.m.

ADDRESSES: Cavanaugh's, 1101 N. Columbia Center Blvd., Kennewick, WA 99336, ph: 509–783–0611; fax: 509–735–3087.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Ph: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION:

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

Tentative Agenda

The Board will receive information on and discuss issues related to the Office of River Protection; the Interim Stabilization Consent Decree; the Plutonium Finishing Plant; and the

Groundwater/vadose Zone Draft Baseline Document.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling her at (509) 373–5647.

Issued at Washington, DC on December 17, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–34085 Filed 12–23–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

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

DATES: Thursday, January 7, 1999: 6 p.m.–9:30 p.m.

ADDRESS: College Hill Library, (Front Range Community College), 3705 West 112th Avenue, Westminster, CO.

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

SUPPLEMENTARY INFORMATION:

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

Tentative Agenda:

1. The Board will host a presentation on the National Environmental Policy Act (NEPA). Many actions at Rocky Flats, including the upcoming interim storage of transuranic waste, fall under NEPA requirements.

2. The Board will continue to learn about and discuss storage plans for transuranic waste at Rocky Flats. The site must now make interim storage decisions for these wastes, as lawsuits have delayed the opening of the Waste Isolation Pilot Plant (WIPP).

3. Other Board business will be conducted as necessary.

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

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on December 18, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–34086 Filed 12–23–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket No. FE–R–79–43B]

Electric and Gas Utilities Covered in 1999 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Requirements for State Regulatory Authorities To Notify the Department of Energy

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) require the Secretary of Energy (Secretary) to publish a list, before the beginning of each calendar year, identifying each electric utility and gas utility to which Titles I and III of PURPA apply during such calendar year. In addition, sections 102(c) and 301(d) of PURPA require each State regulatory authority to notify the Secretary of each electric utility and gas utility on the list for which such State regulatory authority has ratemaking authority. This Notice is to announce the availability of the 1999 list of electric and gas utilities and to request written comments on the accuracy of the list.

The list is available both in hard copy and electronically. The hard copy version of the 1999 list is being provided by mail to all State regulatory authorities. Other parties interested in receiving the hard copy of the list may contact the **FOR FURTHER INFORMATION CONTACT** identified below. In addition, the Office of Coal & Power Import and Export operates a web site as a service to commercial and government users, as well as the general public. The 1999 list is available by accessing the web site at:

http://www.fe.doe.gov/coal__power/elec__reg/elec__reg.htm

DATES: Notifications by State regulatory authorities and written comments must be received no later than 4:30 p.m. on February 15, 1999.

ADDRESSES: Notifications and written comments should be forwarded to: U.S. Department of Energy, Office of Coal & Power Import and Export, FE–27, 1000 Independence Avenue, SW, Room 4G–

025, Docket No. FE–R–79–43B, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Office of Coal & Power Import and Export, Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 4G–025, FE–27, Washington, DC 20585, Telephone 202/586–9506.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 102(c) and 301(d) of PURPA, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 260l *et seq.*, hereinafter referred to as the Act) the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA apply in 1999.

State regulatory authorities are required by the Act to notify the Secretary as to their ratemaking authority over the listed utilities. The inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the responsible authority under the Act.

The term ''State regulatory authority'' means any State, including the District of Columbia and Puerto Rico, or a political subdivision thereof, and any agency or instrumentality, which has authority to fix, modify, approve, or disapprove rates with respect to the sale of electric energy or natural gas by any utility (other than such State agency). In the case of a utility for which the Tennessee Valley Authority (TVA) has ratemaking authority, the term ''State regulatory authority'' means the TVA.

Title I of PURPA sets forth ratemaking and regulatory policy standards with respect to electric utilities. Section 102(c) of Title I requires the Secretary to publish a list, before the beginning of each calendar year, identifying each electric utility to which Title I applies during such calendar year. An electric utility is defined as any person, State agency, or Federal agency that sells electric energy. An electric utility is covered by Title I for any calendar year if it had total sales of electric energy, for purposes other than resale, in excess of 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. An electric utility is covered in 1999 if it exceeded the threshold in any year from 1976 through 1997.

Title III of PURPA addresses ratemaking and other regulatory policy standards with respect to natural gas utilities. Section 301(d) of Title III requires the Secretary to publish a list, before the beginning of each calendar year, identifying each gas utility to which Title III applies during such calendar year. A gas utility is defined as any person, State agency, or Federal agency, engaged in the local distribution of natural gas and the sale of natural gas to any ultimate consumer of natural gas. A gas utility is covered by Title III if it had total sales of natural gas, for purposes other than resale, in excess of 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. A gas utility is covered in 1999 if it exceeded the threshold in any year from 1976 through 1997.

In compiling the list published today, the DOE revised the 1998 list (63 FR 475, January 6, 1998) upon the assumption that all entities included on the 1998 list are properly included on the 1999 list unless the DOE has information to the contrary. In doing this, the DOE took into account information included in public documents regarding entities which exceeded the PURPA thresholds for the first time in 1997. The DOE believes that it will become aware of any errors or omissions in the list published today by means of the comment process called for by this Notice. The DOE will, after consideration of any comment and other information available to the DOE, provide written notice of any further additions or deletions to the list.

II. Notification and Comment Procedures

No later than 4:30 p.m. on February 15, 1999, each State regulatory authority must notify the DOE in writing of each utility on the list over which it has ratemaking authority. Two copies of such notification should be submitted to the address indicated in the **ADDRESS** section of this Notice and should be identified on the outside of the envelope and on the document with the designation ''Docket No. FE–R–79–43B.'' Such notification should include:

1. A complete list of electric utilities and gas utilities over which the State regulatory authority has ratemaking authority;

2. Legal citations pertaining to the ratemaking authority of the State regulatory authority; and,

3. For any listed utility known to be subject to other ratemaking authorities within the State for portions of its service area, a precise description of the portion to which such notification applies.

All interested persons, including State regulatory authorities, are invited to comment in writing, no later than 4:30 p.m. on February 15, 1999, on any errors or omissions with respect to the list. Two copies of such comments should be sent to the address indicated in the **ADDRESS** section of this Notice and should be identified on the outside of the envelope and on the document with the designation ''Docket No. FE–R–79–43B.'' Written comments should include the commenter's name, address, and telephone number.

All notifications and comments received by the DOE will be made available, upon request, for public inspection and copying in the Freedom of Information Reading Room, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

III. List of Electric Utilities and Gas Utilities

The 1999 list consists of two parts (Appendices A and B). Each displays a different tabulation of the utilities that meet PURPA coverage requirements. As stated above, the inclusion or exclusion of any utility on or from the lists does not affect that utility's legal obligations or those of the responsible State regulatory authority under PURPA.

Appendix A contains a list of utilities which are covered by PURPA. These utilities are grouped by State and by the regulatory authority within each State. Also included in this list are utilities which are covered by PURPA but which are not regulated by the State regulatory authority. This tabulation, including explanatory notes, is based on information provided to the DOE by State regulatory authorities in response to the January 6, 1998 **Federal Register** notice (63 FR 475) requiring each State regulatory authority to notify the DOE of each utility on the list over which it has ratemaking authority, public comments received with respect to that notice, and information subsequently made available to the DOE.

The utilities classified in Appendix A as not regulated by the State regulatory authority, in fact, may be regulated by local municipal authorities. These municipal authorities would be State agencies as defined by PURPA and thus have responsibilities under PURPA identical to those of the State regulatory authority. Therefore, each such municipality is to notify the DOE of each utility on the list over which it has ratemaking authority.

In Appendix B, the utilities are listed alphabetically, subdivided into electric utilities and gas utilities, and further subdivided by type of ownership: investor-owned utilities, publicly-owned utilities, and rural cooperatives.

Those parties interested in accessing the list electronically through our web site may do so by contacting http://

www.fe.doe.gov/coal__power/elec__reg/elec__reg.htm. Once you have accessed our web site just follow the directions to the 1999 list.

The changes to the 1998 list of electric and gas utilities are as follows:

Additions:

Central Iowa Power Cooperative (IA)
College Station Utilities (TX)
Concord Electric Company (NH)
Connecticut Valley Electric Company (NH)
Corn Belt Power Cooperative (IA)
Denton Municipal Utilities (TX)
Exeter & Hampton Electric Company (NH)
Kirkwood Electric (CA)
Lake Superior Water, Light and Power (WI)
New Braunfels Utilities (TX)
Northwest Iowa Power Cooperative (IA)
West Coast Gas (CA)

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601) *et. seq.*))

Issued in Washington, DC., on December 17, 1998.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal and Power Im/Ex, Office of Fossil Energy.

[FR Doc. 98–34087 Filed 12–23–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–20–001]

Algonquin Gas Transmission Company; Notice of Compliance Filing

December 18, 1998.

Take notice that on December 14, 1998, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Third Revised Sheet No. 687, to become effective December 1, 1998.

Algonquin asserts that the above listed tariff sheet is being filed in compliance with the Commission's November 27, 1998 letter order in Docket No. TM99–1–20 in which the Commission directed Algonquin to file additional information to support its waiver request in its October 30, 1998 filing to permit the computation of the Fuel Reimbursement Quantity Deferred Account surcharge solely on the basis of actual cash transactions to reflect current Commission policy, as expressed in Koch Gateway Pipeline Co., 76 FERC ¶ 61,296 (1996), followed more recently in ANR Pipeline Co., 80 FERC ¶ 61,173 (1997), and since Algonquin's tariff permits the use of imputed values in part. Algonquin states that the revised tariff provision is being submitted as an alternative to the prospective portion of Algonquin's October 30 waiver-request, consistent with the Commission's policy.

Algonquin also states that the filing includes the data required by the Commission's order; i.e., a detailed explanation and workpapers showing the differences between the adjustments contained in Algonquin's filing in Docket No. TM99–1–20 and those which would have occurred under the procedures previously followed by Algonquin and approved by the Commission.

Algonquin states that copies of the filing were mailed to all affected customers of Algonquin and interested state commissions, as well as all parties in Docket No. TM99–1–20–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–34084 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–198–000]

Constellation Energy Source, Inc.; Notice of Issuance of Order

December 18, 1998.

Constellation Energy Source, Inc. (CES), a wholly-owned subsidiary of Baltimore Gas & Electric Company, filed an application seeking Commission authorization to engage in the wholesale sale and brokering of electric energy and capacity at market-based rates, and for certain waivers and authorizations. In particular, CES requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by CES. On December 18, 1998, the Commission issued an Order Conditionally Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's December 18, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by CES should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, CES is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of CES, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of CES' issuances of securities or assumptions of liabilities* * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 19, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers,

Secretary.

[FR Doc. 98–34072 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–259–002 and TM99–2–31–002 (Not consolidated]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 18, 1998.

Take notice that on December 14, 1998, NorAm Gas Transmission Company (ANGT) tendered for filing as

part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective as indicated:

Docket No. RP98–259–001

2nd Sub Thirteenth Revised Sheet No. 5 Effective November 1, 1998

Docket No. TM99–2–31–001

2nd Sub Fourteenth Revised Sheet No. 5 Effective November 1, 1998
Fifteenth Revised Sheet No. 5 Effective December 7, 1998

NGT states that the purpose of this filing is to reflect the change in effective date from November 1, 1998 to December 7, 1998 for the inclusion of its Electric Power Cost tracker in Overrun Rates in compliance with the Commission's December 4, 1998 Letter Order.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–34081 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–182–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 18, 1998.

Take notice that on December 14, 1998, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A attached to the filing, to be effective January 14, 1999.

Trunkline states that the purpose of this filing, made in accordance with the provisions of section 154.202 of the Commission's Regulations, is to implement a new rate schedule, Rate Schedule FFZ for Flexible Field Zone Transportation Service, pursuant to Trunkline's blanket certificate authorization under section 284.221 of the Commission's Regulations. Accordingly, this filing includes tariff sheets for the new rate schedule and form of service agreement, as well as conforming revisions to various other tariff provisions to reflect the addition of Rate Schedule FFZ to the menu of services Trunkline makes available to its shippers. Trunkline proposes to offer a flexible firm transportation service under Rate Schedule FFZ for shippers that are willing to make a commitment to Trunkline for their leasehold interest in identified Outer Continental Shelf fields.

Trunkline states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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,

Secretary.

[FR Doc. 98–34082 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–183–000]

Viking Gas Transmission Company; Notice of Filing and Refund Report

December 18, 1998.

Take notice that on December 14, 1998, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to this filing.

Viking proposed that 1st Rev Sub Tenth Revised Sheet No. 6 be made effective on November 1, 1997 and that the other tariff sheets listed on Appendix A be made effective as designated thereon.

Viking also submits a refund report labeled ''Expansion Contracts Demand Revenue Adjustments'' that details refunds Viking is making to its Rate Schedule FT–C expansion customers.

Viking states that the purpose of this filing is to make a limited Section 4 filing pursuant to 15 U.S.C. § 717c to true-up Viking's initial incremental demand rate for Rate Schedule FT–C service to $8.63 per month and to refund the difference between the initial and trued-up rates for Rate Schedule FT–C expansion service. On November 12, 1996, Viking Gas Transmission Company filed in Docket No. CP97–93–000, pursuant to Section 7(c) of the Natural Gas Act, to construct and operate 29.4 miles of pipeline looping and related facilities. As discussed in the Commission's May 6, 1997 ''Order Issuing Certificate'' in Docket No. CP97–93–000, 79 FERC ¶ 61,136 (May 6, 1997 Order), Viking proposed to make a retroactive true-up filing to adjust the initial rate for FT–C service of $8.65 Dth/month after a final accounting of the project was completed with Viking refunding the difference between the initial and trued-up rates for Rate Schedule FT–C expansion service to its customers. See Viking Gas Transmission Company, 79 FERC ¶ 61,136, at 61,575 (1997). On September 23, 1997, Viking filed in Docket No. RP97–534–000 to establish Rate Schedule FT–C and to implement the initial incremental demand rate of $8.65 Dth/month approved by the Commission in the May 6, 1997 Order.

Viking states that Sheet No. 6 reflects Viking's trued-up rates for its Rate Schedule FT–C expansion service. Viking is also filing workpapers that update the exhibits that Viking filed on November 12, 1996 in Docket No. CP97–93–000 as part of its ''Abbreviated Application for a Certificate of Public Convenience and Necessity.'' These workpapers detail the differences between the costs underlying Viking's initial and trued-up rates for Rate Schedule FT–C service as well as the development of Viking's trued-up Rate Schedule FT–C rates. Viking's refund report details the refund and interest owed to Viking's Rate Schedule FT–C customers. (18 CFR 154.501). Viking further states that it is refunding these amounts to its Rate Schedule FT–C expansion customers in January 1999 by applying the refund amounts to its invoices for December 1998. Viking began invoicing based on its trued-up rates for services rendered in December 1998.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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,

Secretary.

[FR Doc. 98–34083 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters

December 18, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 1494–166.

c. *Date Filed:* November 4, 1998.

d. *Applicant:* Grand River Dam Authority.

e. *Name of Project:* Pensacola.

f. *Location:* The Pensacola Project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mary E. Von Drehle, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301, (918) 256–5545.

i. *FERC Contact:* Jon Cofrancesco, (202) 219–0079.

j. *Comment Date:* January 28, 1999.

k. *Description of Project:* Grand River Dam Authority, licensee for the Pensacola Project, requests Commission authorization to issue a permit to Glen Tucker, d/b/a Shangri-La Marina (permittee), to dredge 600 cubic yards of material from the west side of the existing marina to make room for additional boat slips. The permittee proposes to remove 28 existing boat slips and install three, 10′×50′ breakwaters and 51 new boat slips at the site. The dredge material would be placed on the permittee's property located above the 757 foot elevation. The marina will have a total of 171 slips upon completion of the proposed expansion.

1. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–34073 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

December 18, 1998.

a. *Type of Filing:* Notice of Intent To File an Application for a New License.

b. *Project No.:* 2516.

c. *Date Filed:* December 7, 1998.

d. *Submitted By:* The Potomac Edison Company-current licensee, doing business as Allegheny Power.

e. *Name of Project:* Dam No. 4 Hydro Station.

f. *Location:* On the Potomac River, near the Town of Shepherdstown, in Berkeley County, West Virginia. The project dam and reservoir are owned by the United States and operated by the National Park Service.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee Contact:*

Allegheny Power, Greensburg Corporate Center, 800 Cabin Hill Drive, Greensburg, PA 15601; Attention: Charles L. Simons, (724) 838–6397

The Potomac Edison Company, 10435 Downsville Pike, Hagerstown, MD 21740; Attention: Marlene Brooks

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone (202) 219–2778.

j. *Effective date of current license:* December 1, 1976.

k. *Expiration date of current license:* December 31, 2003.

l. *Description of the Project:* The project consists of the following facilities: (1) a 230-foot-long, 50-foot-wide headrace; (2) a stone and concrete powerhouse containing three generating units with a total installed capacity of 1,900 kW; (3) a 600-foot-long, 80-foot-wide tailrace; (4) a substation; (5) a 4.5-mile-long, 34.5-kV transmission line; and (6) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications

for license for this project must be filed by December 31, 2001.

David P. Boergers,

Secretary.

[FR Doc. 98–34074 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a Subsequent License

December 18, 1998.

a. *Type of Filing:* Notice of Intent To File an Application for a Subsequent License.

b. *Project No.:* 2517.

c. *Date Filed:* December 7, 1998.

d. *Submitted By:* The Potomac Edison Company-current licensee, doing business as Allegheny Power.

e. *Name of Project:* Dam No. 5 Hydro Station.

f. *Location:* On the Potomac River, near the Town of Hedgeville, in Berkeley County, West Virginia. The project dam and reservoir are owned by the United States and operated by the National Park Service.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee Contact:*

Allegheny Power, Greensburg Corporate Center, 800 Cabin Hill Drive, Greensburg, PA 15601; Attention: Charles L. Simons, (724) 838–6397

The Potomac Edison Company, 10435 Downsville Pike, Hagerstown, MD 21740; Attention: Marlene Brooks

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone (202) 219–2778

j. *Effective date of current license:* December 1, 1976

k. *Expiration date of current license:* December 31, 2003

l. *Description of the Project:* The project consists of the following existing facilities: (1) a 40-foot by 50-foot headrace; (2) a brick and concrete powerhouse containing two generating units with a total installed capacity of 1,210 kW; (3) a tailrace; and (4) other appurtenances.

m. Each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 2001.

David P. Boergers,

Secretary.

[FR Doc. 98–34075 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions To Intervene and Protest

December 18, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11630–000.

c. *Date filed:* November 6, 1998.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Allegheny Lock and Dam No. 2 Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Allegheny Lock and Dam No. 2 on the Allegheny River, near the Town of Sharpsburg, Allegheny County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Lee.Ed@FERC.fed.us.

j. *Comment Date:* February 16, 1999.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Allegheny Lock and Dam No. 2 and Reservoir, and would consist of the following facilities: (1) A new powerhouse to be constructed on the tailrace side of the dam having an installed capacity of 8,940 kilowatts; (2) a new transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 55 gigawatthours. The cost of the studies under the permit will not exceed $1,800,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at www.ferc.fed.us. For assistance, users may call (202) 208–2222.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these

studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–34077 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions To Intervene and Protest

December 18, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11631–000.

c. *Date filed:* November 6, 1998.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Allegheny Lock and Dam No. 4 Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Allegheny Lock and Dam No. 4 on the Allegheny River, near the Town of Brackenridge, Allegheny County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Lee.Ed@FERC.fed.us.

j. *Comment Date:* February 16, 1999.

k. *Description of Project:* the proposed project would utilize the existing U.S. Army Corps of Engineers' Allegheny Lock and Dam No. 4 and Reservoir, and would consist of the following facilities: (1) A new powerhouse to be constructed on the tailrace side of the dam having an installed capacity of 8,600 kilowatts; (2) a new transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 55 gigawatthours. The cost of the studies under the permit will not exceed $1,800,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files maintenance Branch, located at 888 North Capital Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at www.ferc.fed.us. For assistance, users may call (202) 208–2222.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the

requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–34078 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions To Intervene and Protest

December 18, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11635–000.

c. *Date filed:* November 17, 1998.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Point Marion Lock and Dam Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Point Marion Lock and Dam on the Monongahela River, near the Town of Point Marion, Greene and Fayette Counties, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Lee.Ed@FERC.fed.us.

j. *Comment Date:* February 16, 1999.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Point Marion Lock/Dam and Reservoir, and would consist of the following facilities: (1) A new powerhouse to be constructed on the tailrace side of the dam having an installed capacity of 3,100 kilowatts; (2) a new transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 19 gigawatthours. The cost of the studies under the permit will not exceed $1,000,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at www.ferc.fed.us. For assistance, users may call (202) 208–2222.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–34079 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions To Intervene and Protest

December 18, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11636–000.

c. *Date filed:* November 16, 1998.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Ballville Dam and Reservoir Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Ballville Dam on the Sandusky River, near the Town of Ballville, Sandusky County, Ohio.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Lee.Ed@FERC.fed.us.

j. *Comment Date:* February 16, 1999.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Ballville Dam and Reservoir, and would consist of the following facilities: (1) a new powerhouse to be constructed on the trailrace side of the dam having an installed capacity of 2,000 kilowatts; (2) a new transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 13 gigawatthours. The cost of the studies under the permit will not exceed $1,000,000.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at www.ferc.fed.us. For assistance, users may call (202) 208–2222.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business, address, and telephone number of the prospective applicant, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the Requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents

must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NW, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–34080 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2000–010]

Power Authority of the State of New York; Notice of Meeting To Discuss Settlement for Relicensing of the St. Lawrence—FDR Power Project

December 18, 1998.

The establishment of the Cooperative Consultation Process (CCP) Team and the Scoping Process for relicensing of the St. Lawrence—FDR Power Project was identified in the NOTICE OF MEMORANDUM OF UNDERSTANDING, FORMATION OF COOPERATIVE CONSULTATION PROCESS TEAM, AND INITIATION OF SCOPING PROCESS ASSOCIATED WITH RELICENSING THE ST. LAWREENCE–FDR POWER PROJECT issued May 2, 1996, and found in the **Federal Register** dated May 8, 1996, Volume 61, No. 90, on page 20813.

The CCP Team will meet January 26–28, 1999 to commence negotiations on ecological and local issues. The meeting will be conducted at the New York Power Authority's (NYPA) Robert Moses Powerhouse, at 10:00 a.m., located in Massena, New York.

If you would like more information about the CCP Team and the relicensing process, please contact any one of the following individuals:

Mr. Thomas R. Tatham, New York Power Authority, (212) 468–6747, (212) 468–6272 (fax); EMAIL: Ytathat@IP3GATE.USA.COM

Mr. Bill Little, Esq., New York State Dept. of Environmental Conservation, (518) 457–0986, (518) 457–3978 (fax); EMAIL: WGLittle@GW.DEC.State,NY.US

Dr. Jennifer Hill, Ms. Patti Leppert-Slack, Federal Energy Regulatory Commission, (202) 219–2797 (Jennifer), (202) 219–2767 (Patti), (202) 219–0125 (fax);

EMAIL:Jennifer.Hill@FERC.FED.US

EMAIL:Paricia.LeppertSlack@FERC.Fed.US

Further information about NYPA and the St. Lawrence—FDR Power Project can be obtained through the Internet at http://www.stl. nypa.gov/index.html. Information about the Federal Energy Regulatory Commission can be obtained at hhtp://www.ferc.fed.us.

David P. Boergers,

Secretary.

[FR Doc. 98–34076 Filed 12–23–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5498–2]

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 December 14, 1998 Through December 18, 1998 Pursuant to 40 CFR 1506.9.

EIS No. 980510, FINAL SUPPLEMENT, NOA, Atlantic Sea Scallop, Placopecten Magellanicus, (Gmelin), Fishery Management Plan (FMP), Updated and Additional Information, Amendment No. 7, Due: January 25, 1999, Contact: Kathi Rodriques (978) 281–9300.

EIS No. 980511, FINAL SUPPLEMENT, NOA, AK, Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Groundfish of the Gulf of Alaska, Implementation of Groundfish Total Allowable Catch Specifications and Prohibited Species Catch Limits Under the Authority of the Fishery Management Plans, AK, Contact: Steven Pennoyer (907) 586–7221. Under § 1506.10(d) of the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act the US Environmental Protection Agency has Granted a 30-Day Wavier for the above EIS.

EIS No. 980512, FINAL EIS, AFS, CA, Desolation Wilderness Management Guidelines Revisions for the Eldorado National Forest and the Lake Tahoe Basin Management Unit (LTBMU), Limits of Acceptable Change (LAC), Eldorado County, CA, Due: January 25, 1999, Contact: Daina Erickson (530) 622–5061.

EIS No. 980513, FINAL EIS, USN, PA, Naval Air Warfare Center Aircraft Division (NAWCAD) Warminster, Disposal and Reuse, Bucks County, PA, Due: January 25, 1999, Contact: Kurt C. Frederick (610) 595–0728.

EIS No. 980514, DRAFT EIS, DOE, SC, Savannah River Site Spent Nuclear Fuel Management Plan, Implementation, Aiken County, SC, Due: February 08, 1999, Contact: Andrew R. Grainger (803) 725–1523.

EIS No. 980515, DRAFT EIS, DOE, TN, NY, IL, NM, Spallation Neutron Source (SNS) Facility Construction and Operation, Implementation and Site Selection, Oak Ridge National Laboratory, Oak Ridge, TN; Argonne National Laboratory, Argonne, IL; Brookhaven National Laboratory, Upton, NY; and Los Alamos National Laboratory, Los Alamos, NM, Due: February 08, 1999, Contact: David Wilfert (800) 927–9964.

EIS No. 980516, FINAL SUPPLEMENT, UMC, CA, Sewage Effluent Compliance Project, Updated and Additional Information, Implementation, Lower Santa Margarita Basin, Marine Corps Base Camp Pendleton, San Diego County, CA, Due: January 25, 1999, Contact: Vickie Taylor (619) 532–3007.

EIS No. 980517, DRAFT EIS, FHW, HI, Puainako Street Extension and Widening, Traffic Circulation Improvements, Funding, South Hilo, Hawaii County, HI, Due: February 22, 1999, Contact: Abraham Wong (808) 541–2700.

EIS No. 980518, FINAL EIS, IBR, CA, Central Valley Project, Municipal and Industrial Water Supply Contracts under Public Law 101–514 (Section 206), Sacramento County Water Agency and San Juan Water District, City of Folsom, Sacramento County, CA, Due: January 25, 1999, Contact: Cecil Lesley (916) 989–7221.

EIS No. 980519, FINAL EIS, AFS, AZ, Windmill Range Allotment Management Plan, Cattle Grazing Use, Implementation, Coconino National Forest, Mormon Lake, Peaks and Sedona Ranger Districts, Coconino

and Yavapai Counties, AZ, Due: January 25, 1999, Contact: Mike Hannemann (520) 774–1147.

Dated: December 21, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–34132 Filed 12–23–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6204–9]

Underground Injection Control Program; Hazardous Waste Land Disposal Restrictions; Petition for Reissuance of an Exemption—Class I Hazardous Waste Injection Wells, E. I. du Pont de Nemours & Co., Inc. (DuPont)

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on the exemption reissuance.

SUMMARY: Notice is hereby given that a petition for the reissuance of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to DuPont, for the Class I injection wells located at the Orange, Texas facility. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision approves the recompletion of Well No. 3 (WDW–54) and the relocation of Well No. 11 (WDW–282). As required by 40 CFR 148.22(b) and 40 CFR 124.10, a public notice was issued on September 29, 1998. The public comment period closed on November 13, 1998, and no comments were received. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of December 11, 1998.

ADDRESSES: Copies of the exemption reissuance and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief, Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

Russell L. Bowen,

Acting Director, Water Quality Protection Division (6WQ).

[FR Doc. 98–34149 Filed 12–23–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

Proposed Implementation Guidance for the Revised Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and Regional Haze Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period.

SUMMARY: The EPA is hereby extending by 22 days, the closing date of the public comment period regarding EPA's notice of availability published November 27, 1998 at 63 FR 65593. The original comment period was to close on December 28, 1998. The new closing date will be January 19, 1999.

DATES: *Comments.* All comments regarding EPA's notice of availability issued on November 27, 1998 must be received by EPA on or before close of business January 19, 1999.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6101), Attention: Docket No. A–95–38, Category IV–I, U.S. Environmental Protection Agency, 401 M Street SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548, between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Comments and data may also be submitted electronically by following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: For general questions on the document or for specific questions and comments on the ozone portion of this guidance, contact Mr. John Silvasi, U.S. EPA, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5666, e-mail address ''silvasi.john@epa.gov''; for specific questions and comments on the PM portion of this guidance, contact Mr. Larry Wallace, U.S. EPA, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–0906, e-mail address ''wallace.larry@epa.gov''; and for specific questions and comments on the regional haze portion of this guidance, contact Mr. Rich Damberg, U.S. EPA, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5592, e-mail address ''damberg.rich@epa.gov''.

SUPPLEMENTARY INFORMATION: The purpose of this guidance is to set forth EPA's current views on the issues identified above. These issues will be addressed in future rulemakings as appropriate, e.g., actions approving or disapproving SIP submittals. In those rulemakings, EPA plans to propose to take a particular action based in whole or in part on its views of the relevant issues, and the public will have an opportunity to comment on EPA's interpretations during the rulemakings. When EPA issues final rules based on its views at that time, those views will be binding on the States, the public, and EPA as a matter of law.

Electronic Availability—A World Wide Web (WWW) site has been developed for overview information on the NAAQS and the ozone, PM, and regional haze implementation process. The Uniform Resource Location (URL) for the home page of the web site is *http://ttnwww.rtpnc.epa.gov/implement.* The proposed implementation guidance can be accessed through this web site in a table entitled ''Major Action Items to Reinvent Ozone and PM NAAQS and Regional Haze Implementation.'' The URL for the table is *http://ttnwww.rtpnc.epa.gov/implement/actions.htm.* For assistance with these web sites, the TTN Helpline is (919) 541–5384. For those persons without electronic capability, a copy of the proposed implementation guidance may be obtained from Ms. Tricia Crabtree, U.S. EPA, MD–15, Air Quality Strategies and Standards Division, Research Triangle Park, NC 27711, telephone (919) 541–5688).

The official record for this proposed guidance, as well as the public version, has been established under docket number A–95–38 (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 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The official proposed rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. Electronic comments can be sent directly to EPA at: A-and-

R-Docket@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 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–95–38. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Dated: December 17, 1998.

John S. Seitz,

Director, Office of Air Quality, Planning and Standards.

[FR Doc. 98–34148 Filed 12–23–98; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of Information Collection Under Review; Elementary-Secondary Staff Information Report EEO–5.

SUMMARY: In accordance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (EEOC) announces that it intends to submit to the Office of Management and Budget (OMB) a request for an extension of the existing information collection listed below.

DATES: Written comments on this notice must be submitted on or before February 22, 1999.

ADDRESSES: Comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW, Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile (''FAX'') machine. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number.) Only comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4078 (voice) or (202) 663–4074 (TDD). (These are not toll-free telephone numbers.) Copies of comments submitted by the public will be available for review at the Commission's library, Room 6502, 1801 L Street, NW, Washington, DC 20507 between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Program Research and Surveys Division, 1801 L Street, NW, Room 9222, Washington, DC 20507, (202) 663–4958 (voice) or (202) 663–7063 (TDD).

SUPPLEMENTARY INFORMATION: The Commission solicits public comment to enable it to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of the Commission'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 information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

Collection Title: Elementary-Secondary Staff Information Report EEO–5.

OMB Number: 0346–0003.

Frequency of Report: Biennial.

Type of Respondent: Public elementary and secondary school districts with 100 or more employees.

Description of Affected Public: State and Local Government.

Number of Responses: 5,000.

Reporting Hours: 25,000.

Federal Cost: $80,000.

Number of Forms: 1.

Abstract: Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e–8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports therefrom as required by the EEOC. Accordingly, the EEOC has issued regulations which set forth the reporting requirement for various kinds of employers. Elementary and secondary public schools systems and districts have been required to submit EEO–5 reports to EEOC since 1974 (biennially in even numbered years since 1982). Since 1996 each school district or system has submitted all of the district data on a single form, EEOC Form 168A. The individual school form, EEOC Form 168B, was eliminated in 1996, greatly reducing the respondent burden and cost.

EEO–5 data are used by the EEOC to investigate charges of employment discrimination against elementary and secondary public school districts. The data are used to support EEOC decisions and conciliations, and for research. The data are shared with the Department of Education (Office for Civil Rights and the National Center for Education Statistics) and the Department of Justice. Pursuant to section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO–5 data are also shared with 86 State and local Fair Employment Practices Agencies (FEPAs).

Burden Statement: The estimated number of respondents included in the annual EEO–5 survey is 5000 public elementary and secondary school districts. The number of responses per respondent is one report. The annual number of responses is approximately 5,000 and the total hours per response is five (5) hours. The estimated total number of response hours is 25,000 each time the survey is conducted (i.e., biennially). Respondents are encouraged to report data on electronic media such as magnetic tapes and diskettes.

Dated: December 18, 1998.

For the Commission.

Ida L. Castro,

Chairwoman,

[FR Doc. 98–34174 Filed 12–23–98; 8:45 am]

BILLING CODE 6570–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

December 16, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to

any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 25, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 234, 1919 M St., N.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0180.

Title: Section 73.1610, Equipment Tests.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 550.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 275 hours.

Total Annual Cost: None.

Needs and Uses: This information collection requires the permittee of a new broadcast station to notify the FCC of its plans to conduct equipment tests for the purpose of making adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit and applicable engineering standards. The data are used by FCC staff to assure compliance with the terms of the construction permit and applicable engineering standards.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–34117 Filed 12–23–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date of this notice appears in the **Federal Register**.

Agreement No.: 217–011643

Title: Space Charter Agreement Between Kambara Kisen Co., Ltd. and Kyowa Shipping Co., Ltd.

Parties: Kambara Kisen Co., Ltd. Kyowa Shipping Co., Ltd.

Synopsis: Under the proposed agreement, Kambara Kisen will provide Kyowa Shipping with space on its vessels serving the trade between ports in the Far East and South East Asia and ports of Guam and Saipan.

Dated: December 18, 1998.

By order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 98–34106 Filed 12–23–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Petition P5–98]

Petition of National Customs Brokers & Forwarders Association of America for Issuance of a Rulemaking or, in the Alternative, for a Declaratory Order; Notice of Filing of Petition

Notice is given that a petition for rulemaking or, alternatively, for a declaratory order, has been filed by the National Customs Brokers & Forwarders Association of America (''Petitioner''). Petitioner seeks a rulemaking to address the scope of the term ''shipper'' as used in section 3(23) of the Shipping Act of 1984, 46 U.S.C. app. section 1702(23), and to address a Commission rule in 46 CFR 510.23(a), pertaining to the disclosure of principal. Specifically, Petitioner requests a rulemaking or declaratory order to dispel alleged ambiguity by allowing ocean freight forwarders to act as shippers.

Interested persons are requested to reply to the petition no later than January 25, 1999. Replies shall specify the desired disposition of the petition and, to the extent applicable, shall specify the substance of any rule or order supported. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001, shall consist of an original and 15 copies, and shall be served on counsel for Petitioner, Edward D. Greenberg, Esq., Galland, Kharasch & Garfinkle, P.C., 1054 Thirty-First Street, NW, Washington, DC 20007–4492.

Copies of the petition are available for examination at the Washington, DC office of the Secretary of the Commission, 800 North Capitol Street, NW, Room 1046.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 98–34107 Filed 12–23–98; 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 January 7, 1999.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Dudley Nolan Althaus, Fredericksburg, Texas; to acquire additional voting shares of Pioneer Bancshares, Inc., Fredericksburg, Texas, and thereby indirectly acquire voting shares of Pioneer National Bank, Fredericksburg, Texas.

Board of Governors of the Federal Reserve System, December 18, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–34103 Filed 12–23–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 98-33608) published on page 70131 of the issue for Friday, December 18, 1998.

Under the Federal Reserve Bank of Chicago heading, the entry for Avondale Financial Corp., Chicago, Illinois, is revised to read as follows:

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Avondale Financial Corp., Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Coal City Corporation, Chicago, Illinois, and Manufacturers Corporation, Chicago, Illinois, and thereby indirectly acquire Manufacturers Bank, Chicago, Illinois.

Comments on this application must be received by January 14, 1999.

Board of Governors of the Federal Reserve System, December 18, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–34102 Filed 12–23–98; 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 January 18, 1999.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. CBCC, Inc., Exton, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Chester County, Exton, Pennsylvania.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Peoples Bancorporation, Inc., Easley, South Carolina; to acquire 100 percent of the voting shares of Seneca National Bank, Seneca, South Carolina (in organization).

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. First Commerce Bancshares, Inc., Lincoln, Nebraska; to acquire 100 percent of the voting shares of First Commerce Bancshares of Colorado, Inc., Colorado Springs, Colorado; and thereby indirectly acquire First Commerce Bank of Colorado, N.A., Colorado Springs, Colorado, a *de novo* bank. First Commerce Bancshares of Colorado, Inc., has also applied to become a bank holding company.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Metroplex North Bancshares, Inc. Employee Stock Ownership Plan, Celeste, Texas; to become a bank holding company by acquiring 30.3 percent of the voting shares of Metroplex North Bancshares, Inc., Celeste, Texas, and thereby indirectly acquire The First Bank of Celeste, Celeste, Texas.

Board of Governors of the Federal Reserve System, December 18, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–34104 Filed 12–23–98; 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 January 7, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Skandinaviska Enskilda Banken, Stockholm, Sweden; to acquire ABB Investment Management Corp., Stamford, Connecticut, and thereby engage in financial and investment advisory activities, pursuant to § 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, December 18, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–34105 Filed 12–23–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Public Health and Science; Availability of Crisis Response Teams for Technical Assistance

AGENCY: Office of Public Health and Science, in the Office of the Secretary (OPHS/OS), Department of Health and Human Services (HHS).

ACTION: Notice.

AUTHORITY: 42 U.S.C. 241, 243.

SUMMARY: The Office of Public Health and Science announces the availability of technical assistance teams, known as crisis response teams, to provide multidisciplinary technical assistance to localities most highly impacted by HIV/AIDS within racial and ethnic minority communities. The HIV/AIDS epidemic disproportionately affects racial and ethnic minority populations nationally, with major metropolitan areas and urban centers most heavily impacted by high AIDS case rates and large numbers of people living with HIV disease. The crisis response team would work in partnership with local community officials, public health personnel and community leaders to further describe the local HIV/AIDS epidemic and its impact upon vulnerable populations, assist them in identifying potential strategies to enhance prevention efforts, and maximize community health and support service networks and access to care. Findings of the crisis response team will be provided to local elected and health department officials, and to the HIV community planning groups and planning councils for their consideration and action. The crisis response teams must be requested by the chief elected official of an eligible jurisdiction, in collaboration with the director of the local health department and State/local HIV community planning groups and HIV planning councils.

DATES: Letters of request from localities requesting to apply for a crisis response team must be received on or before January 25, 1999.

ADDRESSES: Letters of request should be submitted to: Director, Office of HIV/AIDS Policy, Office of Public Health and Science, Room 736–E, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Office of HIV/AIDS Policy, Office of Public Health and Science, telephone (202) 690–5560.

SUPPLEMENTARY INFORMATION: Eligibility criteria for localities wishing to apply for a crisis response team are: (1) Eligible metropolitan statistical areas with populations of 500,000 or greater; (2) 1,500 or greater living AIDS cases among African Americans and Hispanic Americans; (3) at least 50 percent of living AIDS cases within the MSA are African American and Hispanic Americans combined; and (4) the chief elected official of the MSA, in collaboration with appropriate health officials, must submit a written request to the Secretary requesting a crisis response team. In the case that multiple jurisdictions are represented within an eligible MSA, the chief elected official of the city or urban county that administers the public health agency that provides outpatient and ambulatory services to the greatest number of individuals with AIDS, as reported to and confirmed by the Centers for Disease Control and Prevention, in the eligible area is the individual responsible for making a written request to the Secretary. This letter of request must indicate the support of the Director of the jurisdiction's local health department for the crisis response team, a description of the key issues, and a confirmation of the commitment of local officials to working with the communities most impacted by HIV/AIDS over a sustained period. Smaller communities with under 500,000 population in which the demographics of the HIV epidemic are rapidly changing may submit a letter of request following the process outlined above; these requests will be considered separately. The Virgin Islands will be separately considered for a crisis response team given the unique nature of the HIV/AIDS epidemic in this geographic area. Metropolitan statistical areas qualifying under criteria one through three include: Atlanta, GA; Baltimore, MD; Chicago, IL; Detroit, MI; Fort Lauderdale, FL; Houston, TX; Jersey City, NJ; Los Angeles-Long Beach, CA; Miami, FL; New Haven-Bridgeport-Danbury-Waterbury, CT; New York, NY; Newark, NJ; Philadelphia, PA; San Juan-Bayamon, PR; Washington, DC–MD–VA–WV; and West Palm Beach-Boca Raton, FL. The Department will initially deploy crisis response teams to three jurisdictions and evaluate their effectiveness, and respond to further requests for this technical assistance within its capacity to assemble the appropriate expert teams.

Dated: December 16, 1998.

Glen E. Harelson,

Acting Director, Office of HIV/AIDS Policy.

[FR Doc. 98–34064 Filed 12–23–98; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Meeting of the Advisory Committee on Blood Safety and Availability

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of meeting.

The Advisory Committee on Blood Safety and Availability will meet on January 28, 1999 from 9 a.m. to 5 p.m. and January 29, 1999, from 8 a.m. to 3 p.m. The meeting will take place in the Crown Plaza Hotel, 14th and K Streets NW, Washington, DC 20005. The meeting will be entirely open to the public.

The purpose of the meeting will be to discuss the options for implementation and evaluation of the recommendations made by the Advisory Committee regarding hepatitis C lookback at its November 24, 1998 meeting, and consideration of such Old and New Business as time permits.

Prospective speakers should notify the Executive Secretary of their desire to address the Committee and should plan for no more than 5 minutes of comment.

FOR FURTHER INFORMATION CONTACT: Stephen D. Nightingale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Safety, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201. Phone (202) 690–5560 FAX (202) 690–6584 e-mail SNIGHTIN@osophs.dhhs.gov.

Dated: December 17, 1998.

Stephen D. Nightingale,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

[FR Doc. 98–34065 Filed 12–23–98; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Proposed Collection; Comment Report

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning the opportunity for public comment on proposed collections of information, the Administration on Aging (AoA) seeks to collect and publish periodic summaries of proposed projects. These proposed projects constitute an evaluation of the Administration on Aging's Operation

Restore Trust (ORT) grantees. The mission of the Administration on Aging's ORT initiatives is to fight fraud, waste, and abuse in the Medicare and Medicaid programs. As part of a nationwide partnership of public and private agencies and organizations, AoA funds grants through two mechanisms, the Health Insurance Portability and Accountability Act (HIPPA) (Pub. L. 104–191) and the Health Care Anti-fraud Waste and Abuse Community Volunteer Demonstration Program contained in the Omnibus Consolidated Appropriation Act of 1997. These two sets of projects provide education, training, outreach, and other services to build community coalitions, promote awareness, and stimulate action on the part of staff, volunteers, and beneficiaries to identify and report potential cases of inappropriate billing and other improper activity in the nation's publicly financed health insurance programs.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Data will be from all of the AoA funded sites receiving funding in Fiscal Year 1999 and later years where program outcomes are to be assessed on semi-annual basis. The analysis of the data also will help to determine whether the goal of reducing health care waste, fraud, and abuse is being achieved.

The primary purpose of the proposed data collection activity is to meet the reporting requirements of the Government Performance Review Act (GPRA) (Pub. L. 103–62) by allowing AoA to quantify the effects and accomplishments of ORT programs.

	Number of clients	Responses/client	Hours/response	Annual burden hours	Annual burden cost
Semi-annual reporting form	30	2	1	60	$1800
Staff Interview	30	1	1	30	900
Trainee Interview	100	1	.5	50	1500
Total	160			140	4200

To request more information concerning the proposed projects, or to obtain a copy of the information collection plans, call Kenton Williams (202) 619–3951. Written comments may be sent to Kenton Williams, Room 4730 Wilber Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

Written comments should be received within 60 days of this notice.

June B. Faris,

Acting Director, Executive Secretariate, Administration on Aging.

[FR Doc. 98–34067 Filed 12–23–98; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–1110]

Agency Information Collection Activities: Proposed Collection; Comment Request; CGMP Regulations for Finished Pharmaceuticals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions relating to the regulation of FDA's current good manufacturing practices (CGMP's) and related regulations for finished pharmaceuticals.

DATES: Submit written comments on the collection of information by February 22, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

CGMP Regulations for Finished Pharmaceuticals—Parts 210 and 211 (21 CFR Parts 210 and 211) (OMB Control Number 0910–0139)—Reinstatement

Under section 501(a)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 351(a)(2)(B)), a drug is deemed to be adulterated if the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with CGMP's to ensure that such drug meets the requirements of the act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess.

FDA has the authority under section 701(a) of the act (21 U.S.C. 371(a)) to issue regulations for the efficient enforcement of the act regarding CGMP procedures for manufacturing, processing, and holding drugs and drug products. The CGMP regulations help ensure that drug products meet the statutory requirements for safety and have their purported or represented identity, strength, quality, and purity characteristics. The information collection requirements in the CGMP regulations provide FDA with the necessary information to perform its duty to protect public health and safety.

Although CGMP must be current in the industry, a practice need not be widely prevalent providing such practice is both feasible and valuable in ensuring drug quality. CGMP requirements establish accountability in the manufacturing and processing of drug products, provide for meaningful FDA inspections, and enable manufacturers to improve the quality of drug products over time. The recordkeeping requirements also serve preventive and remedial purposes and provide crucial information if it is necessary to recall a drug product.

The general requirements for recordkeeping under part 211 (21 CFR part 211) are set forth in § 211.180. Any production, control, or distribution record associated with a batch and required to be maintained in compliance with part 211 must be retained for at least 1 year after the expiration date of the batch and, for certain OTC drugs, 3 years after distribution of the batch (§ 211.180(a)). Records for all components, drug product containers, closures, and labeling are required to be maintained for at least 1 year after the expiration date and 3 years for certain OTC products (§ 211.180(b)).

All part 211 records must be readily available for authorized inspections during the retention period (§ 211.180(c)), and such records may be retained either as original records or as true copies (§ 211.180(d)). In addition, 21 CFR 11.2(a) provides that ''For records required to be maintained but not submitted to the agency, persons may use electronic records in lieu of paper records or electronic signatures in lieu of traditional signatures, in whole or in part, provided that the requirements of this part are met.'' To the extent this electronic option is used, the burden of maintaining paper records should be substantially reduced as should any review of such records.

In order to facilitate improvements and corrective actions, records must be maintained so that data can be used for evaluating, at least annually, the quality standards of each drug product to determine the need for changes in drug product specifications or manufacturing or control procedures (§ 211.180(e)). Written procedures for these evaluations are to be established and include provisions for a review of a representative number of batches and, where applicable, records associated with the batch, and provisions for a review of complaints, recalls, returned or salvaged drug products, and investigations conducted under § 211.192 for each drug product.

Written procedures, referred to here as standard operating procedures (SOP's), are required for many part 211 records. The current SOP requirements were initially provided in a final rule published in the **Federal Register** of September 29, 1978 (43 FR 45014), and are now an integral and familiar part of the drug manufacturing process. The major paperwork impact of SOP's results from their creation. Thereafter, SOP's need to be periodically updated. A combined estimate is provided below for routine maintenance of SOP's. Estimates for specific recordkeeping requirements are listed individually.

The 25 SOP provisions under part 211 in the combined maintenance estimate include: (1) § 211.22(d) (responsibilities and procedures of the quality control unit); (2) § 211.56(b) (sanitation procedures); (3) § 211.56(c) (use of suitable rodenticides, insecticides, fungicides, fumigating agents, and cleaning and sanitizing agents); (4) § 211.67(b) (cleaning and maintenance of equipment); (5) § 211.68(a) (proper performance of automatic, mechanical, and electronic equipment); (6) § 211.80(a) (receipt, identification, storage, handling, sampling, testing, approval or rejection of components and drug product containers or closures); (7) § 211.94(d) (standards or specifications, methods of testing, and methods of cleaning, sterilizing, and processing to remove pyrogenic properties for drug product containers and closures); (8) § 211.100(a) (production and process control); (9) § 211.110(a) (sampling and testing of in-process materials and drug products); (10) § 211.113(a) (prevention of objectionable microorganisms in drug products not required to be sterile); (11) § 211.113(b) (prevention of microbiological contamination of drug products purporting to be sterile, including validation of any sterilization process); (12) § 211.115(a) (system for reprocessing batches that do not conform to standards or specifications, to insure that reprocessed batches conform with all established standards, specifications, and characteristics); (13) § 211.122(a) (receipt, identification, storage, handling, sampling, examination and/or testing of labeling and packaging materials); (14) § 211.125(f) (control procedures for the issuance of labeling); (15) § 211.130 (packaging and label operations, prevention of mixup and cross contamination, identification and handling of filed drug product containers that are set aside and held in unlabeled condition, identification of the drug product with a lot or control number that permits determination of the history of the manufacture and control of the batch); (16) § 211.142 (warehousing); (17) § 211.150 (distribution of drug products); (18) § 211.160 (laboratory controls); (19) § 211.165(c) (testing and release for distribution); (20) § 211.166(a) (stability testing); (21) § 211.167 (special testing requirements); (22) § 211.180(f) (notification of responsible officials of investigations, recalls, reports of inspectional observations, and any regulatory actions relating to good manufacturing practice); (23) § 211.198(a) (written and oral complaint procedures, including quality control unit review of any complaint involving specifications failures, and serious and unexpected adverse drug experiences); (24) § 211.204 (holding, testing, and reprocessing of returned drug products); and (25) § 211.208 (drug product salvaging).

The following burden estimates for routine maintenance and for specific recordkeeping requirements are based on FDA's institutional experience regarding creation and review of such procedures and similar recordkeeping requirements, and data provided by the Eastern Research Group (ERG) which is a consulting group hired by the FDA economics staff to prepare an economic

analysis of the potential economic impact of the May 3, 1996 (61 FR 20104), proposed rule. ERG prepared a report for FDA that estimated the recordkeeping burden for the proposed rule entitled ''Current Good Manufacturing Practice: Amendment of Certain Requirements for Finished Pharmaceuticals'' (61 FR 20104). This report provided information on the current number of establishments affected by FDA recordkeeping requirements and FDA has relied on these figures to estimate the number of establishments affected by part 211 recordkeeping provisions. ERG estimated that there are 1,077 establishments involved in pharmaceutical preparations, diagnostic substances, and biological products; 948 repackers or relabelers; and 2,159 medical gas establishments for a total estimate of 4,184 recordkeepers subject to CGMP recordkeeping requirements. ERG used a variety of sources to obtain its estimates including reports from the Department of Commerce and FDA registration files. The ERG report is available at the Dockets Management Branch (address above) under Docket No. 95N–0362.

ERG also provided estimates on the burden involved in creating SOP's. While most of the CGMP provisions covered in this document were created many years ago, there will be some existing firms expanding into new manufacturing areas and start-up firms that will need to create SOP's. FDA is assuming that approximately 100 firms will have to create up to 25 SOP's for a total of 2,500 records, and the agency estimates that it will take 20 hours per recordkeeper to create 25 new SOP's for a total of 50,000 hours as a one-time burden. Annual SOP maintenance is estimated to involve 1 hour annually per SOP, totaling 25 hours annually per recordkeeper.

The proposed rule revising part 211 CGMP requirements of May 3, 1996, would require additional SOP's. Cost estimates for those additional SOP's were included in the proposed rule, but are not included here. Any comments on those estimates will be evaluated in any final rule based on that proposal.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
SOP Maintenance (See previous list of 25 SOP's)	4,184	1	4,184	25	104,600
One-time Burden (New Start-up SOP's)[2]	100	25	2,500	20	50,000
211.34	4,184	.25	1,046	.5	523
211.67(c)	4,184	50	209,200	.25	52,300
211.68	4,184	2	8,368	1	8,368
211.68(a)	4,184	10	41,840	.5	20,920
211.68(b)	4,184	5	20,920	.25	5,230
211.72	4,184	.25	1,046	1	1,046
211.80(d)	4,184	.25	1,046	.1	105
211.100(b)	4,184	3	12,552	2	25,104
211.105(b)	4,184	.25	1,046	.25	262
211.122(c)	4,184	50	209,200	.25	52,300
211.130(e)	4,184	50	209,200	.25	52,300
211.132(c)	1,698	20	33,960	.5	16,980
211.132(d)	1,698	.2	340	.5	170
211.137	4,184	5	2,0920	.5	10,460
211.160(a)	4,184	2	8,368	1	8,368
211.165(e)	4,184	1	4,184	1	4,184
211.166(c)	4,184	2	8,368	.5	4,184
211.173	1,077	1	1,077	.25	269
211.180(e)	4,184	.2	837	.25	209
211.180(f)	4,184	.2	837	1	837
211.182	4,184	2	8,368	.25	2,092
211.184	4,184	3	12,552	.5	6,276
211.188	4,184	25	104,600	2	209,200
211.186	4,184	10	41,840	2	83,680
211.192	4,184	2	8,368	1	8,368
211.194	4,184	25	104,600	.5	52,300
211.196	4,184	25	104,600	.25	26,150
211.198	4,184	5	20,920	1	20,920
211.204	4,184	10	41,840	.5	20,920
Total					848,625

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] This is a one-time burden.

Dated: December 15, 1998

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–34114 Filed 12–23–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0260]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Customer/Partner Satisfaction Surveys

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by January 25, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Customer/Partner Satisfaction Surveys (OMB Control Number 0910–0360—Extension)

Under section 903 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 393), FDA is authorized to conduct research relating to regulated articles and to conduct educational and public information programs relating to responsibilities of the agency. Executive Order 12862, entitled ''Setting Customer Service Standards,'' directs Federal agencies that ''provide significant services directly to the public'' to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' FDA is seeking OMB clearance to conduct a series of surveys to implement Executive Order 12862. Participation in the surveys will be voluntary. This request covers customer service surveys of regulated entities, such as: Food processors; cosmetic, drug, biologic and medical device manufacturers; consumers; and health professionals. The request also covers partner surveys of State and local governments. FDA will use the information gathered from these surveys to identify strengths and weaknesses in service to customers/partners and to make improvements. The surveys will assess timeliness, appropriateness, accuracy of information, courtesy, and problem resolution in the context of individual programs. FDA projects 14 customer/partner service surveys per year, with a sample of between 50 and 6,000 customers each. Some of these surveys will be repeats of earlier surveys, for purposes of monitoring customer/partner service and developing long-term data.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Type of Survey	No. of Respondents	Annual Frequency per Response	Hours per Response	Total Hours
Mail/telephone surveys	20,000	1	.30	6,000
Total				6,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

These estimates are based on the number of customer/partner service surveys FDA has conducted since January 26, 1998.

Dated: December 15, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–34111 Filed 12–23–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92F–0443]

Dow Corning Corp.; Filing of Food Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by Dow Corning Corp. to indicate that the petitioner has also proposed that the food additive regulations be amended to provide for the safe use of 1,2-dibromo-2,4-dicyanobutane as an antimicrobial agent in the manufacture of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3091.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 12, 1993 (58 FR 8290), FDA announced that a petition (FAP 3B4346) had been filed by Dow Corning Corp., P.O. Box 994, Midland, MI 48686–0994. The petition proposed to amend § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300), § 175.320 *Resinous and polymeric coatings for polyolefin films* (21 CFR 175.320), and § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst. The petition also proposed that the food additive regulations be amended to

provide for the safe use of 3,5-dimethyl-1-hexyne-3-ol, 1-ethynylcyclohexene, bis(methoxymethyl)ethyl maleate and methylvinyl cyclosiloxane as optional polymerization inhibitors. Additionally, the petition proposed that the regulations be amended to provide for the safe use of 5-chloro-2-methyl-4-isothiazolin-3-one and 2-methyl-4-isothiazolin-3-one mixture, optionally containing magnesium nitrate, as an antimicrobial agent for emulsion-based silicone coating formulations.

Subsequent to publication of the filing notice, the petitioner amended the petition to request the use of tetramethyltetravinylcyclotetrasiloxane as an optional polymerization inhibitor in the manufacture of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst.

Therefore, in a notice published in the **Federal Register** of July 2, 1998 (63 FR 36246), FDA amended the filing notice of February 12, 1993, to indicate that the petitioner requests that the food additive regulations be amended to provide for the additional safe use of tetramethyltetravinylcyclotetrasiloxane as an optional polymerization inhibitor in the manufacture of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst.

Additionally, subsequent to publication of the filing notice of July 2, 1998, the petitioner amended the petition to request the use of 1,2-dibromo-2,4-dicyanobutane as an antimicrobial agent in the manufacture of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst.

Therefore, FDA is amending the filing notice of July 2, 1998, to indicate that the petitioner requests that the food additive regulations be amended to provide for the safe use of 1,2-dibromo-2,4-dicyanobutane as an antimicrobial agent in the manufacture of dimethylpolysiloxane coatings produced by cross-linking a vinyl-containing dimethylpolysiloxane with methylhydrogen-containing polysiloxane and dimethylmethylhydrogen polysiloxane polymers using a platinum catalyst.

The agency has determined under 21 CFR 25.32(i) 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.

Dated: December 11, 1998.

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–34112 Filed 12–23–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–1192]

Troy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Troy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3-iodo-2-propynyl butyl carbamate as a fungicidal additive for wood products intended to contact food.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7B4533) has been filed by Troy Corp., c/o S. L. Graham & Associates, 1801 Peachtree Lane, Bowie, MD 20721. The petition proposes to amend the food additive regulations in § 178.3800 *Preservatives for wood* (21 CFR 178.3800) to provide for the safe use of 3-iodo-2-propynyl butyl carbamate as a fungicidal additive for wood products intended to contact food.

The agency has determined under 21 CFR 25.32(q) 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.

Dated: December 10, 1998.

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–34070 Filed 12–23–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–1192]

Troy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Troy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 3-iodo-2-propynyl butyl carbamate as a fungicidal additive for resinous and polymeric coatings intended to contact food.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7B4546) has been filed by Troy Corp., c/o S.L. Graham & Associates, 1801 Peachtree Lane, Bowie, MD 20721. The petition proposes to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 178.300) to provide for the safe use of 3-iodo-2-propynyl butyl carbamate as a fungicidal additive for resinous and polymeric coatings intended to contact food.

The agency has determined under 21 CFR 25.32(q) 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.

Dated: December 10, 1998.

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–34113 Filed 12–23–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2036–NC]

RIN 0938–AJ25

Medicare and Medicaid Programs; Recognition of the Commission for Accreditation of Rehabilitation Facilities

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice with comment period.

SUMMARY: This notice announces and invites comments on the receipt of an application from the Commission for Accreditation of Rehabilitation Facilities for recognition as a national accreditation organization with deemed status authority. The Social Security Act requires us to publish this notice in which we identify the national accreditation body making the application, describe the nature of the request, and provide a 30-day public comment period. The intent of this notice is to solicit public comment as to the advisability of recognizing the Commission for Accreditation of Rehabilitation Facilities as a national accreditation organization with deeming authority to survey and accredit comprehensive outpatient rehabilitation facilities for participation in the Medicare or Medicaid programs.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. eastern time on January 25, 1999.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following addresses: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2036–NC, P. O. Box 26688,Baltimore, MD 21207–0488.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201–0001, or

Room C5–16–03, Central Building,7500 Security Boulevard,Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2036–NC. Written comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. eastern time (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Helaine M. Jeffers, (410) 786–5648.

SUPPLEMENTARY INFORMATION:

I. Background

Providers of health care services participate in the Medicare and Medicaid programs in accordance with provider agreements with us (for Medicare) and State Medicaid agencies (for Medicaid). Generally, in order to enter into a provider agreement, an entity must first be certified by a State survey agency as complying with the conditions, requirements or standards set forth in the Social Security Act (the Act) and regulations. Providers are subject to routine surveys by State survey agencies to determine whether the provider continues to meet these requirements.

There is an alternative, however, to surveys by State agencies. Section 1865 of the Act includes a provision that permits providers of services to be exempt from routine surveys by State survey agencies to determine whether they comply with the definition of hospital services in section 1861(e) of the Act. Specifically, section 1865(b)(1) of the Act provides that if we find that accreditation of a provider entity by a national accreditating body demonstrates that all of the applicable Medicare conditions or requirements are met or exceeded, we would ''deem'' the provider entity as meeting the applicable Medicare requirements. If a national accrediting organization applies to us for recognition of its provider accrediting program, we examine its requirements to determine whether they meet or exceed the Medicare conditions as we would have applied them. If we were to approve the accrediting organization as having standards that meet or exceed our own, providers accredited under the approved program would be ''deemed'' to meet the Medicare conditions of participation or requirements for which the accreditation standards have been recognized.

A deemed status provider is one that has voluntarily applied for and has been accredited by a national accreditation organization under its approved program that meets or exceeds the applicable Medicare conditions or requirements. Federal regulations at 42 CFR part 485, subpart B, set forth the conditions that comprehensive outpatient rehabilitation facilities (CORFs) must meet to be certified under section 1861(cc)(2) of the Act and be accepted for participation in the Medicare program in accordance with 42 CFR part 489.

II. Approval of Accreditation Organization's Program

The purpose of this notice is to notify the public of the receipt of the Commission for Accreditation of Rehabilitation Facilities' (CARF) application for approval to participate in the Medicare program as a national accreditation organization with deemed status authority for CORF accreditation. This notice also solicits public comment on the ability of CARF's program requirements to meet or exceed the Medicare conditions of participation.

Section 1865(b)(2) of the Act sets forth the requirements for us to make a finding among other factors with respect to a national accreditation body, as specified in section III. of this notice.

Section 1865(b)(3)(A) of the Act requires that we publish, no later than 60 days after the date of the receipt of a completed application, a notice identifying the national accreditation body making the request, describing the nature of the request, and providing a period of at least 30 days for the public to comment on the request. In addition, we have 210 days from the receipt of the request to publish an approval or denial of the application.

III. Evaluation of the Application

On August 10, 1998, CARF submitted the necessary application information about its request for our determination that its provider accreditation program meets or exceeds the Medicare conditions and certification requirements for CORFs.

Under section 1865(b)(2) of the Act and our regulations at 42 CFR 488.8 (''Federal review of accreditation organizations''), our review and evaluation of a national accreditation organization will be conducted in accordance with, but not necessarily limited to, the following factors:

- A determination of the equivalency of an accreditation organization's requirements for an entity to our requirements for the entity.
- A review of the organization's survey process to determine the following:

1. The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

2. The organization's comparability of its processes to that of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

3. The organization's procedures for monitoring providers or suppliers found to be out of compliance with program requirements. These monitoring procedures are used only when it identifies noncompliance. If noncompliance at the condition level is identified through validation reviews, the appropriate State survey agency monitors corrections as specified at § 488.7(b)(2).

4. The organization's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

- The organization's ability to provide us with electronic data in ASCII comparable code and reports necessary for effective validation and assessment of its survey process.
- The adequacy of staff and other resources, and its financial viability.
- The organization's ability to provide adequate funding for performing required surveys.
- The organization's policies with respect to whether surveys are announced or unannounced.
- The organization's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

IV. Notice of Evaluation

Upon completion of our evaluation, including the evaluation of public comments received as a result of this notice, we will publish a notice in the **Federal Register** announcing the result of our evaluation.

V. Response to Public Comments

Because of the large number of comments we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble and will respond to them in a forthcoming notice document.

Authority: Section 1865 of the Social Security Act (42 U.S.C. 1395bb).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 30, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 98–34063 Filed 12–23–98; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60-day Proposed Collection: IHS Registered Nurses Recruitment and Retention Survey

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, which requires the provision of a 60-day advance opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) is publishing for comment a summary of a proposed information collection to be submitted to the Office of Management and Budget for review.

Proposed Collection

Title: 09–17–NEW, ''IHS Registered Nurses Recruitment and Retention Survey.'' *Type of Information Collection Request:* New collection. *Form Number:* No reporting forms required. *Need and Use of Information Collection:* The information collected in the proposed survey will be used to determine which improvemetns made since 1984 have worked and what additional changes need to be made to continue to attract and retain Registered Nurses in the IHS, tribal and urban (I/T/U) programs. The informaiton collected in the survey will help to determine (1) the factors that lead to the initial decision to work in the Indian health program; (2) what aspects of the job do/did these employees like or dislike and why; (3) how environmental and personal factors, such as living on or near reservations, local government housing, distance to shopping, schools (pre-school, elementary, and high), social activities, child care facilities, location and size of non-Indian community, sex and race differences, etc., affect their decision to continue with or terminate IHS employment; and (4) how work related issues and current changes, such as Indian preference, quality of other health care staff, local health care mangement pracitces, managed care, Tribal Self-Governance and Self-Determination, etc., affect their decision to stay with or leave IHS employment. *Affected Public:* Individuals, *Type of Respondents:* Current I/T/U Registered Nurses.

Table 1 below provides the following information: types of data collection instruments, estimated number of respondents, number of responses per respondent, annual number of responses, average burden hour per response, and total annual burden hour.

TABLE 1

Data collection instruments	Estimated number of respondents	Responses per respondent	Annual number of responses	Average burden hr per response*	Total annual burden hours
Nursing Survey	600	1	600	1.00 (60 Mins)	600
Total	600	1	600	1.00 (60 mins)	600

For ease of understanding, burden hours are also provided in actual minutes.

There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments

Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whethr the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for indivdiual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Comments and Requests For Further Information: Send your written comments, requests for more information on the proposed collection, or requests to obtain a copy of the data collection instrument(s) and instructions to: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852–1601, call non-toll free (301) 443–5938, send via fax to (301) 443–1522, or send your e-mail requests, comments, and return address to: lhodahkw@hqe.ihs.gov.

Comment Due Date: Your comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: December 16, 1998.

Michael H. Trujillo,

Assistant Surgeon General, Director.

[FR Doc. 98–34071 Filed 12–23–98; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–41]

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.

EFFECTIVE DATE: December 24, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 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 the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 17, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 98–33875 Filed 12–23–98; 8:45 am]

BILLING CODE 4219–29–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Alaska Land Managers Forum

AGENCY: Office of the Secretary.

ACTION: Notice, reestablishment of Advisory Committee.

SUMMARY: This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2 (1988) and 41 CFR 101.6–1015(a). Following consultation with the General Services Administration and the Office of Management and Budget, notice is hereby given that the Secretary of the Interior is administratively reestablishing an advisory committee known as the Alaska Land Managers Forum. The purpose of the committee is to advise the Secretary on Alaska land and resources issues.

FOR FURTHER INFORMATION CONTACT: Deborah L. Williams, Special Assistant to the Secretary of the Interior for Alaska, Office of the Secretary, Department of the Interior, 1689 C Street, Suite 100, Anchorage, Alaska 99501–5151, (907) 271–5485.

SUPPLEMENTARY INFORMATION: In the 40 years since Statehood, land ownership and management in Alaska has undergone a massive change. In 1959, nearly all of Alaska (99.8 percent) was owned by the Federal Government, and most of this land (365 million acres) was public domain under the jurisdiction of the Bureau of Land Management. Today, the State has received title to 90 million acres of a 104.5 million acre entitlement. Alaska Natives, through village and regional corporations established under the Alaska Native Claims Settlement Act of 1971, have become major land holders (37 million acres interim conveyed or patented) with the eventual ownership of 45.5 million acres. Finally, over 145 million acres in Federal ownership are in national forests, parks, and wildlife refuges. These changes in land status have, in turn, generated changes in the roles and relationships of the State and Federal agencies in Alaska. Also, Native corporations, as owners of 12 percent of the State's land area, have become major participants in the complexities of land and resource management.

Since Statehood, there have been several different types of cooperative planning entities charged with making an overview of Alaska issues and developing comprehensive recommendations to the State and Federal Governments. None of these planning entities exist today. The Secretary of the Interior is reestablishing the Alaska Land Managers Forum Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), for the purpose of advising him on land and resource issues in Alaska.

Memership on the Forum consists of individuals appointed by the Secretary of the Interior. Appointed as cochairs are the Special Assistant to the Secretary of the Interior for Alaska as the Federal Cochair, the Lt. Governor of the State of Alaska as the State Cochair, and the President of the Alaska Federation of Natives (or designee) as the Alaska Native Cochair. In addition, the charter provides for appointing the commissioners or directors of specified State agencies, the State directors of specified Federal land management agencies, and the heads of two Alaska Native organizations.

Administrative establishment of the Alaska Land Managers Forum is necessary and in the public interest.

Dated: September 16, 1998.

Bruce Babbitt,

Secretary of the Interior.

Certification

I hereby certify that the administrative reestablishment of the Alaska Land Managers Forum Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the several acts which regulate management of Federal lands in Alaska.

Dated: September 16, 1998.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 98–34155 Filed 12–23–98; 8:45 am]

BILLING CODE 4310–RP–M

DEPARTMENT OF THE INTERIOR

Fish And Wildlife Service

Comprehensive Conservation Plans; Michigan and Minnesota

ACTION: Notice of Intent to Prepare Comprehensive Conservation Plans and Associated Environmental Documents.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service

(Service) intends to gather information necessary to prepare Comprehensive Conservation Plans (CCPs) and environmental assessments for units within Michigan and Minnesota. The CCPs will be prepared for the Wyandotte and Michigan Islands National Wildlife Refuges (NWRs) and the East Lansing Wetland Management District as part of the planning process for Shiawassee NWR. The CCP will be prepared for the Minnesota Valley Wetland Management District as part of the planning process for Minnesota Valley NWR. The Service is furnishing this notice in compliance with the National Wildlife Refuge System Improvement Act of 1997 and the National Environmental Policy Act (NEPA) and implementing regulations:

(1) to advise other agencies and the public of our intentions, and

(2) to obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: Inquire at the address below for due dates for comments regarding specific projects.

ADDRESSES: Address comments and requests for more information or to be put on a mailing list to: Chief, Branch of Ascertainment and Planning, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111, 612–713–5429, E-mail: R3PLANNING@mail.fws.gov

SUPPLEMENTARY INFORMATION: The Service will solicit information from the public via open houses and written comments. Special mailings, newspaper articles, and radio announcements in the areas near each unit will inform people of the time and place of open houses to be held in 1999 related to the CCP and NEPA documentation.

The National Wildlife Refuge System Improvement Act of 1997 requires that all lands within the National Wildlife Refuge System be managed in accordance with an approved CCP. The CCP guides management decisions and identifies goals, objectives, and strategies for achieving unit purposes. Public input into this planning process is encouraged. The CCPs will provide other agencies and the public with a clear understanding of the desired conditions for each of its units and how the Service will implement management strategies.

Shiawassee NWR administers the Wyandotte and Michigan Islands NWRs. Minnesota Valley NWR administers the Minnesota Valley Wetland Management District. The intent to prepare a CCP for the Shiawassee and Minnesota Valley NWRs was published October 1, 1997 (62 FR 51482).

Wyandotte NWR consists of two islands and adjacent shallow waters in the Detroit River offshore from Wyandotte, Michigan. The refuge is situated in what was once one of the most significant migratory staging areas for diving ducks in the United States. Extensive beds of aquatic vegetation have disappeared and only a remnant of the once vast rafts of migratory waterfowl are now seen in Wyandotte. Public access is not permitted on either island.

Michigan Islands NWR consists of five islands. Thunder Bay and Scarecrow Islands are located in Lake Huron near Alpena, Michigan. The islands total 128 acres and are home to the Federally-threatened Dwarf lake iris (Iris lacustris). American redstarts (Setophaga ruticilla) and American black ducks (Anas rubripes) nest on the islands. Gull, Pismire, and Shoe Islands are part of the Beaver Island Group in northern Lake Michigan. The three islands total 235 acres. Pismire and Shoe Islands are officially designated as the Michigan Islands Wilderness Area. Herring (Larus argentatus) and ring bill gulls (L. Delawarensis), double-crested cormorants (Phalacrocorax auritus), great blue herons (Ardea herodias), and Caspian terns (Sterna caspia) nest on the islands.

The East Lansing Wetland Management District consists of two Waterfowl Production Areas, a 160 acre area in Jackson County and a 77 acre area in VanBuren County. The areas are managed primarily to maintain wetland and upland habitat for migrating and nesting waterfowl, migratory birds, and resident game species.

Minnesota Valley Wetland Management District is a 13 county district located in east central Minnesota. The district includes portions of the Minnesota, Cannon, and Mississippi River watersheds. Pre-settlement habitat included prairie pothole, native prairie, oak savannah, and big woods habitats. Prevalent land use in the district is agriculture and urban development around the Twin Cities metropolitan area. The major breeding species of waterfowl in the district are mallards (Anas platyrhynchos), blue-winged teal (A. discors), and wood ducks (Aix sponsa). The district consists of 2,248 acres of waterfowl production areas and approximately 700 easement acres.

The Service units need CCPs because no formal, up-to-date, long-term management direction exists. Until the CCPs are completed, management will be guided by official unit purposes; the National Wildlife Refuge System Improvement Act of 1997; other Federal legislation regarding management of national wildlife refuges and wilderness; and other legal, regulatory and policy guidance.

Upon implementation, the CCPs will apply to Federal lands, easements, and lands leased by the Service within the boundaries of the units. The plans will be consistent with the Service's Ecosystem Approach to Fish and Wildlife Conservation and include approaches to habitat management, wildlife population management, public use management, cultural resource identification and protection, and management of any special uses. The compatibility of uses will be determined as part of the CCP process.

The environmental review of these projects will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq*.), NEPA Regulations (40 CFR parts 1500–1508), the National Wildlife Refuge System Improvement Act of 1997, other appropriate Federal laws and regulations, Executive Order 12996, and Service policies and procedures for compliance with those regulations.

We estimate that the first draft CCPs and associated environmental documents will be available by August 1999.

Dated: December 8, 1998.

Marvin E. Moriarty,

Acting Regional Director.

[FR Doc. 98–34178 Filed 12–23–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–040–7122–00–5513; AZA 28793; AZA 29640]

Extension of Public Comment Period for Draft Environmental Impact Statement (DEIS) for the Dos Pobres/San Juan Project Case Number AZA 28973 and AZA 29640, Safford Field Office, Graham County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of public comment period.

SUMMARY: The notice published in the **Federal Register** on Thursday, September 24, 1998, in Vol. 63, No. 185, page 51091, provided for the acceptance of written comments relating to the Draft Environmental Impact Statement for the Dos Pobres/San Juan Project to be accepted until November 25, 1998. A

subsequent notice published in the **Federal Register** on Monday, November 30, 1998, in Vol. 63, No. 229, Page 65809, extended the public comment period to December 18, 1998. This notice extends the public comment period to January 29, 1999.

Dated: December 17, 1998.

Frank L. Rowley,

Acting Field Office Manager.

[FR Doc. 98–34100 Filed 12–23–98; 8:45 am]

BILLING CODE 4310–32–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921–114 (Review)]

Stainless Steel Plate From Sweden

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the antidumping duty order on stainless steel plate from Sweden.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on stainless steel plate from Sweden would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: December 15, 1998.

FOR FURTHER INFORMATION CONTACT: Pamela Luskin (202–205–3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background—On November 5, 1998, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (63 FR 63748, November 16, 1998). A record of the Commissioners' votes and statements by Chairman Bragg and Commissioners Crawford and Koplan are available from the Office of the Secretary and at the Commission's web site.

Participation in the review and public service list—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report—The prehearing staff report in the review will be placed in the nonpublic record on April 21, 1999, and a public version will be issued thereafter, pursuant to § 207.64 of the Commission's rules.

Hearing—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on May 11, 1999, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 3, 1999. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 6, 1999, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.65 of the Commission's rules; the deadline for filing is April 30, 1999. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.67 of the Commission's rules. The deadline for filing posthearing briefs is May 20, 1999; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before May 20, 1999. On June 14, 1999, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before June 16, 1999, but such final comments must not contain new factual information and must otherwise comply with § 207.68 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a

document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: December 16, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–34136 Filed 12–23–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–60; Exemption Application No. D–10352, et al.]

Grant of Individual Exemptions; Citizens Bank New Hampshire

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Citizens Bank New Hampshire, Located in Manchester, New Hampshire

[Prohibited Transaction Exemption 98–60; Exemption Application No. D–10352]

Section I—Exemption for In-Kind Transfers of CIF Assets

The restrictions of sections 406(a) and 406(b) of ERISA and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply, effective October 11, 1996, to the past in-kind transfer of assets of employee benefit plans (the Client Plans) for which Citizens Bank New Hampshire (the Bank) serves as fiduciary, other than plans established and maintained by the Bank, that were held in a portfolio of a collective investment fund maintained by the Bank (the CIF), in exchange for shares of the Berger/BIAM International Institutional Fund (the B/B Fund), an open-end investment company registered under the Investment Company Act of 1940 (the 1940 Act),[1] the investment adviser and investment sub-adviser of which were BBOI Worldwide LLC (BBOI) and Bank of Ireland Asset Management Limited (BIAM), respectively, which are related to the Bank; provided the following conditions and the general conditions of Section III below are met:

(A) No sales commissions or other fees were paid by the Client Plans in connection with the purchase of B/B Fund shares through the in-kind transfer of CIF assets and no redemption fees are paid in connection with the sale of such shares by the Client Plans to the B/B Fund;

(B) The transferred assets constituted the Client Plans' pro rata portion of all assets that were held by the CIF immediately prior to the transfer;

(C) Each Client Plan received shares of the B/B Fund which had a total net asset value that is equal to the value of the Client Plans' pro rata share of the assets of the CIF on the date of the transfer, as determined in a single valuation performed in the same manner at the close of the same business day, using an independent source in accordance with Rule 17a–7(b) issued by the Securities and Exchange Commission under the 1940 Act and the procedures established by the B/B Fund pursuant to Rule 17a–7(b) for the valuation of such assets. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on the current market value of the assets of the CIF, as objectively determined by an independent principal pricing service (the Principal Pricing Service);

(D) A second fiduciary who is independent of and unrelated to the Bank (the Second Fiduciary) received advance written notice of the in-kind transfer of assets of the CIF and full written disclosure of information concerning the B/B Fund and, on the basis of such information, authorized in writing the in-kind transfer of the Client Plan's CIF assets to the B/B Fund in exchange for shares of the B/B Fund. The full written disclosure referred to in this paragraph (D) of Section I included the following information:

(1) A current prospectus for the B/B Fund;

(2) A description of the fees for investment advisory or similar services that are to be paid (directly or indirectly) by the B/B Fund to BBOI and BIAM, the fees paid to the Bank for Secondary Services, as defined in Section IV below, and all other fees to be charged to or paid by the Client Plan and the B/B Fund directly or indirectly to BBOI, BIAM, the Bank, or unrelated

[1] In this regard, the Bank represents that any further in-kind transfers of CIF assets to the B/B Fund will comply with the conditions of Prohibited Transaction Exemption (PTE) 97–41 (62 FR 42830, August 8, 1997). PTE 97–41 permits the purchase by employee benefit plans (i.e. the Client Plans) of shares of one or more open-ended management investment companies (i.e. mutual funds) registered under the 1940 Act in exchange for assets of the Client Plans transferred in-kind to the mutual fund from a collective investment fund (i.e. the CIF) maintained by a bank or a plan adviser, where the bank or plan adviser is the investment adviser to the mutual fund and also a fiduciary to the Client Plans, if the conditions of the exemption are met. However, as noted further below, the Bank distributed written confirmation to the Client Plans regarding the in-kind transfer of CIF assets made to the Funds within 150 days, rather than within the 105-day period required by Section I(g) of PTE 97–41. Thus, an individual exemption to cover these specific CIF conversions is necessary to provide the appropriate retroactive relief.

third parties, including the nature and extent of any differential between the rates of the fees;

(3) The reasons for the Bank's determination that the Client Plan's investment in the B/B Fund is appropriate;

(4) A statement describing whether there are any limitations applicable to the Bank with respect to which assets of the Client Plan may be invested in the B/B Fund and, if so, the nature of such limitations;

(E) On the basis of the information described in paragraph (D) of this Section III, the Second Fiduciary authorized in writing the investment of assets of the Client Plans in shares of the Fund and the fees received by BBOI, BIAM or the Bank in connection with their services to the B/B Fund. Such authorization by the Second Fiduciary is consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act;

(F) The Bank sent by regular mail to the Second Fiduciary no later than 150 days[2] after the completion of the transfer a written confirmation that contained the following information:

(a) The identity of each security that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4);

(b) The price of each such security involved in the transaction;

(c) The identity of the pricing service consulted in determining the value of such securities;

(d) The number of CIF units held by the Client Plan immediately before the transfer, the related per-unit value, and the total dollar amount of such CIF units; and

(e) The numbers of shares in the B/B Fund that are held by the Client Plan following the transfer, the related per-share net asset value, and the total dollar amount of such shares;

(G) The Bank did not and will not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions;

(H) On an ongoing basis, for the duration of a Client Plan's investment in the B/B Fund, the Bank provides the Second Fiduciary with the following information:

(1) At least annually, a copy of an updated prospectus of the B/B Fund; and

(2) Upon request, a report or statement containing a description of all fees paid to the Bank, BBOI, BIAM, and their affiliates by the B/B Fund and the Berger/BIAM International Portfolio, the master fund with respect to the B/B Fund pursuant to a ''master/feeder'' structure;

(I) Neither the Bank, BBOI, BIAM nor any affiliate thereof, including any officer or director thereof, purchases shares of the B/B Fund from any of the Client Plans for its own account or sells shares of the B/B Fund to any of the Client Plans from its own account; and

(J) The requirements of Section II of this exemption are met with respect to all arrangements under which investment advisory fees are paid by Client Plans to the Bank and any other party in interest with respect to the Client Plans in connection with Client Plan assets invested in the B/B Fund.

Section II—Exemption for Receipt of Fees From Funds

The restrictions of section 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(D) through (F) of the Code, shall not apply, effective October 11, 1996, to the receipt of fees from the B/B Fund and/or the B/B Portfolio by the Bank, BBOI Worldwide LLC (BBOI) and Bank of Ireland Asset Management (U.S.) Limited (BIAM; collectively, the Advisers) for acting as the investment adviser, as well as for acting as a subadviser, custodian, subadministrator, or provider of other services which are not investment advisory services (Secondary Services), for the B/B Fund in connection with the investment in the B/B Fund by employee benefit plans (the Client Plans) for which the Bank acts as a fiduciary, provided the following conditions and the general conditions of Section III below are met:

(A) No sales commissions are paid by the Client Plans in connection with purchases or sales of shares of the B/B Fund and no redemption fees are paid in connection with the sale of such shares by the Client Plans to the B/B Fund;

(B) The price paid or received by the Client Plans for shares in the B/B Fund is the net asset value per share, as defined in paragraph (E) of Section IV, at the time of the transaction and is the same price which would have been paid or received for the shares by any other investor at that time;

(C) Neither the Advisers nor the Bank nor an affiliate thereof, including any officer or director thereof, purchases from or sells to any of the Client Plans shares of the B/B Fund or the B/B Portfolio;

(D) As to each individual Plan, the combined total of all fees received by the Advisers for the provision of services to the Plan, and in connection with the provision of services to the B/B Fund and the B/B Portfolio with respect to the Plan's investment in the B/B Fund, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act;

(E) The Advisers do not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions;

(F) The Client Plans are not sponsored by the Advisers;

(G) A Second Fiduciary who is acting on behalf of each Plan and who is independent of and unrelated to the Advisers, as defined in paragraph (H) of Section IV below, receives in advance of the investment by the Plan in the B/B Fund a full and detailed written disclosure of information concerning the B/B Fund (including, but not limited to, a current prospectus for the B/B Fund in which such Plan's assets will be invested and a statement describing the fee structure and, upon request by the Second Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, once such documents become available);

(H) On the basis of the information described in paragraph (G) of this Section II, the Second Fiduciary authorizes in writing the investment of assets of the Client Plans in shares of the Fund and the fees received by the Advisers in connection with their services to the B/B Fund. Such authorization by the Second Fiduciary will be consistent with the responsibilities, obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act;

(I) The authorization described in paragraph (H) of this Section II is terminable at will by the Second Fiduciary of a Plan, without penalty to such Plan. Such termination will be effected within one business day following receipt by the Bank, either by mail, hand delivery, facsimile, or other available means at the option of the Second Fiduciary, of written notice of termination; provided that if, due to circumstances beyond the control of the Bank, the sale cannot be executed within one business day, the Bank shall have one additional business day to complete such redemption;

(J) Client Plans do not pay any Plan-level investment management fees, investment advisory fees, or similar fees to the Bank with respect to any of the assets of such Client Plans which are invested in shares of the B/B Fund. This condition does not preclude the payment of investment advisory fees or similar fees by the B/B Fund or the B/B Portfolio to the Advisers under the terms of an investment advisory agreement adopted in accordance with

[2] See Footnote 1 Above.

section 15 of the 1940 Act or other agreement between the Advisers and the B/B Fund or the B/B Portfolio;

(K) In the event of an increase in the rate of any fees paid by the B/B Fund or the B/B Portfolio to any of the Advisers regarding any investment management services, investment advisory services, or fees for other services that any of the Advisers provide to the B/B Fund or the B/B Portfolio over an existing rate for such services that had been authorized by a Second Fiduciary, in accordance with paragraph (H) of this Section II, the Second Fiduciary is provided, at least 30 days in advance of the implementation of such increase, a written notice (which may take the form of a proxy statement, letter or similar communication that is separate from the prospectus of the B/B Fund and which explains the nature and amount of the increase in fees), and approves in writing the continued holding of B/B Fund shares acquired prior to such change. Such approval may be limited solely to the investment advisory and other fees paid by the B/B Fund in relation to the fees paid by the plan and need not relate to any other aspects of such investment;

(L) With respect to the B/B Fund, the Bank will provide the Second Fiduciary of each Plan:

(a) At least annually with a copy of an updated prospectus of the B/B Fund and the B/B Portfolio; and

(b) Upon the request of such Second Fiduciary, with a report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) which contains a description of all fees paid by the B/B Fund and the B/B Portfolio to the Advisers;

(M) All dealings between the Client Plans and the B/B Fund are on a basis no less favorable to such Client Plans than dealings between the Funds and other shareholders holding the same class of shares as the Client Plans.

Section III—General Conditions

(A) The Bank maintains for a period of six years the records necessary to enable the persons described below in paragraph (B) to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Bank, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than the Bank shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (B) below.

(B)(1) Except as provided in paragraph (B)(2) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (A) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of a Client Plan who has authority to acquire or dispose of shares of the B/B Fund owned by the Client Plan, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of a Client Plan or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (B)(1)(ii) and (iii) shall be authorized to examine trade secrets of the Advisers, or commercial or financial information which is privileged or confidential.

Section IV—Definitions

For purposes of this exemption:

(A)(1) The term ''Bank'' means Citizens Bank New Hampshire;

(2) The term ''BIAM'' means Bank of Ireland Asset Management;

(3) The term ''BBOI'' means BBOI Worldwide LLC;

(B) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(C) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(D)(1) The terms ''Fund'' and ''B/B Fund'' mean the Berger/BIAM International Institutional Fund, an open-end investment company registered under the 1940 Act, one of a series of investment portfolios which are distinct investment vehicles referred to as ''feeder'' funds, with respect to which BBOI and BIAM may provide Secondary Services; and

(2) The terms ''Portfolio'' and ''B/B Portfolio'' mean the Berger/BIAM International Portfolio, an open-end investment company registered under the 1940 Act, the master fund with respect to the B/B Fund pursuant to a ''master/feeder'' arrangement, with respect to which BBOI and BIAM serve as investment adviser and investment sub-adviser, respectively.

(E) The term ''net asset value'' means the amount for purposes of pricing all purchases, sales and redemptions of shares of the Berger/BIAM International Institutional Fund (the B/B Fund) calculated by dividing the total value of such Fund's assets, determined by a method set forth in the B/B Fund's prospectus and statement of additional information, less the liabilities chargeable to the B/B Fund, by the number of outstanding shares.

(F) The term ''Principal Pricing Service'' means an independent, recognized pricing service that has determined the aggregate dollar value of marketable securities involved in the transfer of CIF assets.

(G) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(H) The term ''Second Fiduciary'' means a fiduciary of a Plan who is independent of and unrelated to the Bank, BIAM and BBOI. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to the Bank, BIAM and BBOI if:

(1) Such Second Fiduciary directly or indirectly controls, is controlled by, or is under common control with the Bank, BIAM or BBOI;

(2) Such Second Fiduciary, or any officer, director, partner, employee, or relative of such Second Fiduciary, is an officer, director, partner or employee of the Bank, BIAM or BBOI (or is a relative of such persons); or

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner or employee of the Bank, BIAM or BBOI (or relative of such persons) is a director of such Second Fiduciary, and if he or she abstains from participation in the choice of a Plan's investment adviser, the approval of any such purchase or sale between a Plan and the B/B Fund, the approval of any change of fees charged to or paid by the Plan, the B/B Fund or the B/B Portfolio, and the transactions described in Sections I and

II above, then paragraph (H)(2) of this section shall not apply.

(I) The term ''Secondary Service'' means a service, other than investment advisory or similar service, which is provided by the Bank, BIAM or BBOI to the B/B Fund.

EFFECTIVE DATE: This exemption is effective as of October 11, 1996.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on October 6, 1998, at 63 FR 53709.

Modifications: The Department, with the consent of the applicant's representative, has made certain modifications to the conditions contained in Section I of the Notice.

First, a new condition (B) has been added to Section I of this exemption which requires that the transferred assets must have constituted the Client Plan's pro rata portion of all assets that were held by the CIF immediately prior to the transfer.

Second, a footnote has been added to the operative language in Section I to clarify that any future in-kind transfers of CIF assets to the Funds will comply with the conditions of PTE 97–41 (62 FR 42830, August 8, 1997), a class exemption granted by the Department which covers such transactions if the conditions of the exemption are met.

No other written comments, and no requests for a hearing, were received by the Department.

Accordingly, the Department has determined to grant the proposed exemption, as modified herein.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher J. Motta of the Department, telephone (202) 219–8883 (This is not a toll-free number).

John Hancock Mutual Life Insurance Company (JHMLIC), Located in Boston, Massachusetts

[Prohibited Transaction Exemption 98–61; Application No. D–10484]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the proposed purchases and sales of Timber Assets between various Accounts that are managed by Hancock Natural Resource Group, Inc. (HNRG), John Hancock Timber Resource Corporation (JHTRC), or another Affiliate of JHMLIC.

Conditions and Definitions

This exemption is subject to the following conditions:

1. ERISA-Covered Plans may participate in the proposed transactions only if they have total assets in excess of $100 million.

2. At least 30 days prior to the proposed transaction, each affected Customer invested in the Accounts participating in the transaction will be provided with information regarding the Timber Assets involved and the terms of the transaction, including the purchase price and how the transaction would meet the goals and investment policies of the Customer. Notice of any change in the purchase price will be provided to the Customer at least 30 days prior to the consummation of the transaction.

3. An Independent Fiduciary will be appointed by JHMLIC or an Affiliate as follows:

(a) Where the proposed transaction involves an ERISA-Covered Plan (including a Pooled Separate Account or other Account holding ''plan assets'' subject to the Act)[3] and a Non-ERISA Plan or other Non-ERISA Customer, an Independent Fiduciary will be appointed to represent the Account in which the ERISA-Covered Plan is invested, whether that Account is the buyer or the seller of the Timber Assets in the proposed transaction;

(b) Where the proposed transaction involves two ERISA-Covered Plans (or Pooled Separate Accounts or other Accounts holding ''plan assets'' subject to the Act) and the decision to liquidate the Timber Asset is the result of one or more ''triggering events'' described below, an Independent Fiduciary will be appointed by JHMLIC or an Affiliate to represent the purchasing plan (or Pooled Separate Account or other Account holding ''plan assets'')—i.e. the Buying Account. A ''triggering event'' will exist whenever:

(i) JHMLIC or an Affiliate receives a direction from the Customer to liquidate all of the Customer's Account or interest in an Account, and the decision to select any particular Timber Asset to be sold is outside of the control of JHMLIC and its Affiliates;

(ii) JHMLIC or an Affiliate receives a request by the Customer to liquidate a specified timber property held in the Customer's Account, and the decision to liquidate the Timber Asset is outside of the control of JHMLIC and its Affiliates; or

(iii) a liquidation of all of the assets held in the Selling Account, or a particular property held by such Account, is required under the terms of the investment contract, insurance contract or investment guidelines governing the Account, and the decision to select any particular Timber Asset to be sold is outside of the control of JHMLIC and its Affiliates; and

(c) Where the proposed transaction involves two ERISA-Covered Plans (or Pooled Separate Accounts or other Accounts holding ''plan assets'' subject to the Act) and there is no ''triggering event'' as described above in Condition 3(b), or where a Pooled Separate Account in which a Hancock Plan participates is the Selling Account, an Independent Fiduciary will be appointed by JHMLIC or an Affiliate for each Account involved in the transaction.

4. With respect to each transaction requiring the participation of an Independent Fiduciary (as described in Condition 3 above), the purchase and sale of a Timber Asset shall not be consummated unless the Independent Fiduciary determines that the transaction, including the price to be paid or received for the property, would be in the best interest of the particular Account involved based on the investment policies and objectives of such Account.

5. Each Account which buys or sells a particular Timber Asset pays no more than or receives no less than the fair market value of the Timber Asset at the time of the transaction, as determined by a qualified independent real estate appraiser experienced with the valuation of timber properties similar to the type involved in the transaction.

6. Each purchase or sale of a Timber Asset between Accounts is a one-time cash transaction.

7. Each Account involved in the purchase or sale of a Timber Asset pays no real estate commissions or brokerage fees relating to the transaction.

8. JHMLIC or an Affiliate acts as a discretionary investment manager for the assets of the Accounts involved in each transaction, provided that this condition will not fail to have been met solely because the Customer retains the right to veto or approve the purchase or sale of Timber Assets.

9. An Account does not participate in a covered transaction if the assets of any Hancock Plan(s) in the Account exceed 20 percent of the total assets of the Account.

10. No purchase or sale transaction is designed to benefit the interests of one particular Account over another.

11. For purposes of this exemption:

(a) ''Account'' means a Separate Account as defined below, including a ''Non-Pooled Separate Account'' or a ''Pooled Separate Account,'' as well as a limited partnership or limited liability company for which JHMLIC or an

[3] See 29 CFR 2510.3–101 for the Department's definition of ''plan assets'' relating to plan investments.

Affiliate serves as general partner, investment manager or adviser.

(b) ''Timber Asset'' means a fee simple in timberland (and appurtenant rights), as well as a timber lease or timber deed, provided that, with respect to any timber lease or timber deed: (i) the underlying fee simple is owned by a person other than JHMLIC, its Affiliates, or any Account at the time of sale; and (ii) the entire deed or lease originally acquired by the Selling Account is sold to the Buying Account.

(c) ''ERISA-Covered Plan'' is an employee benefit plan as defined under section 3(3) of the Act;

(d) ''Non-ERISA Plan'' or ''Non-ERISA Customer'' means an entity or investor not covered by the provisions of Title I of the Act, such as a governmental plan, a university endowment fund, a charitable foundation fund or other institutional investor, whose assets are managed in an Account for which JHMLIC or an Affiliate acts as investment manager;

(e) ''Affiliate'' means any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with JHMLIC;

(f) ''Buying Account'' means the Account which seeks to purchase Timber Assets from another Account;

(g) ''Selling Account'' means the Account which seeks to sell Timber Assets to another Account;

(h) ''Independent Fiduciary'' means a person or entity with authority to both review the appropriateness of the proposed transaction for an Account, that is considered to hold ''plan assets'' subject to the fiduciary responsibility provisions of the Act, based on the investment policy established for that Account, and to negotiate the terms of the transaction, including the price to be paid for the Timber Asset. An individual or firm selected to serve as an Independent Fiduciary shall meet the following criteria:

(1) The individual or firm may have no current employment relationship with JHMLIC or an Affiliate, although a prior employment relationship would not disqualify the individual or firm;

(2) No individual or firm may serve as an Independent Fiduciary during any year in which gross receipts received from business with JHMLIC and its Affiliates for that year exceed five (5) percent of such individual's or firm's gross receipts from all sources for the prior year;

(3) The individual or firm must be an expert with respect to timberland valuations;

(4) The individual or firm must have the ability to access (itself or through persons engaged by it) appropriate timberland sales comparison data and make appropriate adjustments to the subject property; and

(5) The individual or firm must not have a criminal record involving fraud, fiduciary standards, or securities laws violations;

(i) ''Separate Account'' means a segregated asset Account which receives premiums or contributions from customers, including employee benefit plans subject to the Act, in connection with group annuity contracts and funding agreements, with investments held in the name of JHMLIC, but where the value of the contract or agreement to the Customer (contractholder) fluctuates with the value of the investment associated with such Account;

(j) ''Non-Pooled Separate Account'' or ''Non-Pooled Account'' means a Separate Account established to back a single contract issued to one Customer, which may be an employee benefit plan subject to the Act;

(k) ''Pooled Separate Account'' or ''Pooled Account'' means a Separate Account established to back a group of substantially identical contracts issued to a number of unrelated Customers, including employee benefits plans subject to the Act; and

(l) ''Customer'' means a person or entity that acts as the authorized representative for the investor in an Account involved in a proposed purchase or sale of Timber Assets, that is independent of JHMLIC and its Affiliates, provided, however, that for any Hancock Plan (as defined in Paragraph 11(m) below), a ''Customer'' shall mean the Plan Investment Advisory Committee of JHMLIC.

(m) ''Hancock Plan'' means an employee benefit plan sponsored by JHMLIC or an Affiliate which invests in an Account.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 29, 1998, at 63 FR 35284.

WRITTEN COMMENTS: The applicant (i.e. JHMLIC) submitted a number of comments on the notice of proposed exemption (the Notice). These comments, and the modifications to the Notice made by the Department in response thereto, are discussed below.

First, with respect to the scope of the exemption, JHMLIC requests that the term ''Account,'' as defined in Paragraph 10 of the Notice, be expanded to include limited liability companies (LLCs). JHMLIC represents that LLCs offer several advantages over limited partnerships, which make LLCs an increasingly popular form of ownership of investment property. These advantages include more flexibility in the management of the business than exists with partnerships and more liquidity in the transferability of an interest in an LLC than in a limited partnership. JHMLIC states that LLCs would be subject to the same conditions and safeguards in the requested exemption as partnerships. For example, the role of the Independent Fiduciary of the LLC would be the same as its role with respect to a partnership.

Thus, JHMLIC proposes that the Department redefine the term ''Account'' in Paragraph 10(a) of the Notice to include both limited partnerships and LLCs, and to delete the separate definition of the term ''Partnership'' contained in Paragraph 10(b) of the Notice.

The Department has modified the definition of the term ''Account'' (see Paragraph 11(a) of this exemption) to reflect the changes requested by JHMLIC.

Second, with respect to the use of the term ''timber property'' in the operative language and conditions contained in the Notice, JHMLIC requests that the relief provided by the exemption cover purchases and sales of ''Timber Assets'' and that such term should be separately defined to include both fee simple interests in timber properties and timber-related assets, such as timber leases and timber deeds.

JHMLIC represents that timber investments often involve the acquisition and holding of property rights other than fees simple. For example, timber portfolios routinely include such valuable assets as timber leases and timber deeds. A timber lease is a contract between a landowner (the lessor) and another party (the lessee) under which the lessee is granted the right to use the land for the production of timber for a specified period of time. Timber leases typically specify how the land is to be managed and the condition in which the land must be returned to the lessor at the end of the lease. Timber lessees have significant rights, including the right to plant, grow and harvest timber. A timber deed is a contract under which the landowner grants to a third party the right to harvest existing timber. Typically, the deed holder is not required to harvest all or any portion of the timber and its right to do so will be forfeited after a specified period of time. Timber deeds do not generally involve replanting by the deed holder either for the benefit of the landowner or the deed holder.

JHMLIC states that timber leases and timber deeds may be bought and sold

independently of the underlying fee simple. For example, while an Account may not own a fee simple on a particular timber property it may have the contractual right to harvest the timber on that property. The management and valuation of timber deeds and leases are the province of the same managers and appraisers who manage and value timberland fees simple. JHLMIC represents that when an Account invests in timber leases or deeds, the fee simple interest is held by an unrelated party, not by another Account or by JHMLIC or an Affiliate. Thus, where an Account owns the underlying fee simple in a timber property, rather than a timber lease or timber deed, it retains the right to harvest the timber and does not assign that right to any other party, including another Account. In addition, JHMLIC states that if a timber deed or timber lease is owned by an Account as a Timber Asset, and that deed or lease is sold to another Account under the conditions of this exemption, the entire deed or lease originally acquired by the Selling Account will be sold to the Buying Account. This condition will prevent these timber deeds and leases from being ''parcelized'' between the various Accounts.

JHLMIC states further that other property rights, including mineral rights, easements and recreational leases, are rights that are appurtenant to the fee simple interest in a timber property. Such rights are bought and sold, and appraised, as part of the fee. These rights are currently contemplated by use of the term ''timber property'' in the Notice. JHMLIC states that it is not seeking to have the exemption cover the transfer of these rights apart from the underlying fee simple.

Thus, JHMLIC proposes to add the term ''Timber Asset'' to the exemption and to define such term to mean a fee simple in timberland (and appurtenant rights), as well as a timber lease or timber deed, provided that, with respect to any timber lease or timber deed: (i) the underlying fee simple is owned by a person other than JHMLIC, its Affiliates, or any Account at the time of sale; and (ii) the entire deed or lease originally acquired by the Selling Account is sold to the Buying Account.

The Department has modified the definitions contained in the exemption by adding the term ''Timber Asset'' to such definitions, which is included as the new Paragraph 11(b) above.

Third, with respect to the definition of the term ''Customer'' in Paragraph 10(l) of the Notice, JHMLIC states that plans sponsored by JHMLIC and its affiliates (i.e., Hancock Plans) also invest in Timber Assets through Pooled Separate Accounts maintained by HNRG, JHTRC or another Affiliate of JHMLIC. Currently, the John Hancock Pension Plan has interests in three pooled accounts. These interests constitute 15.6%, 10% and 9.9%, respectively, of these Accounts.

JHMLIC states that the Notice, as drafted, would make the exemption unavailable to these Pooled Separate Accounts merely because a Hancock Plan has an interest in them. This result occurs because the term ''Customer'' in Paragraph 10(l) of the Notice requires that disclosures regarding a covered transaction be provided to a person that is independent of JHMLIC and its Affiliates. In this regard, JHMLIC states that it is not appropriate to deny an entire Pooled Separate Account access to the cost savings associated with the covered transactions merely because a Hancock Plan participates in the Account. JHMLIC states that the terms and conditions of the exemption, including the requirements for either a ''triggering event'' (as described in Condition 3(b) above) or an Independent Fiduciary to act on behalf of the Account, will address potential conflicts of interest that could be deemed to exist by virtue of the participation of the Hancock Plans as investors in such Accounts.

Thus, JHMLIC proposes to redefine the term ''Customer'' to permit that term to include the Plan Investment Advisory Committee of JHMLIC for purposes of interests held in an Account by a Hancock Plan. In this regard, JHMLIC represents that the interests of any Hancock Plan(s) in such Accounts will not exceed 20 percent of that Account.

As a further safeguard to avoid potential conflicts of interest in transactions between an Account in which a Hancock Plan participates and other Accounts, JHMLIC proposes that Paragraph 3(c) of the exemption require that an Independent Fiduciary be appointed to represent any Selling Account in which a Hancock Plan participates, whether or not there exists a ''triggering event'' for the sale of the Timber Asset by that Account.

Therefore, the Department has modified the definition of the term ''Customer'' (see Paragraph 11(l) above) to allow the Plan Investment Advisory Committee of JHMLIC to come within the meaning of that term for purposes of the exemption. In addition, the Department has added ''Hancock Plan'' as a new term which is defined in Paragraph 11(m) above. The Department has also added a new Paragraph 9 to the exemption (as discussed further below) which requires that any Hancock Plan covered under the exemption must be an investor which has interests in an Account which, when combined with the interests of any other Hancock Plan, do not exceed 20 percent of that Account. Finally, the Department has modified the conditions relating to the appointment of an Independent Fiduciary, as stated in Paragraph 3, to require that an Independent Fiduciary represent any Selling Account in which a Hancock Plan participates regardless of whether the sale of a Timber Asset by that Account results from a ''triggering event''.

Fourth, with respect to the role of an Independent Fiduciary, JHMLIC represents that in Paragraph 3 of the Notice, the flush language suggests that in all cases when an Independent Fiduciary is appointed, the Independent Fiduciary will represent the interests of the ERISA-Covered Plans. JHMLIC wishes to clarify that in the case of a Pooled Separate Account the Independent Fiduciary will represent the interests of the Account, and therefore all of its participating plans—whether ERISA-Covered Plans or other types of plans. In this regard, the Department also received two comment letters from the Fire and Police Pension Association of Colorado, a client of HTRG, requesting that the role of the Independent Fiduciary for such an Account be clarified in order to refer to non-ERISA plans.

Thus, JHMLIC proposes that the phrase ''* * * to represent the interests of the ERISA-Covered Plans'' be deleted from the flush language of Paragraph 3 of the exemption, noting that the remaining language, plus subparagraphs (a), (b) and (c) of Paragraph 3, would then adequately address the role of the Independent Fiduciary for all investors in an Account.

The Department has modified the language of Paragraph 3 of the exemption by making the deletion requested by JHMLIC.

Fifth, with respect to an independent appraisal of a timber property to establish its fair market value, Paragraph 5 of the Notice requires that the price used for a covered transaction be established by an ''independent real estate appraiser.'' In this regard, JHMLIC proposes that the qualifications for the Independent Fiduciary, as stated in Paragraph 10(h) of the Notice, be modified so that the Independent Fiduciary is not required to be a qualified appraiser. JHMLIC states that while the Independent Fiduciary selected may perform appraisals in the ordinary course of its business, JHMLIC would like to have the flexibility to engage a fiduciary who is not

necessarily a qualified appraiser of timber assets. In such instances, the appraisal required by the exemption (see Paragraph 5 above) would be obtained by the Independent Fiduciary from another person who is an independent qualified appraiser.

Thus, JHMLIC proposes that modifications to the definition of the term ''Independent Fiduciary'' be made to recognize that although the fiduciary chosen for an Account will be an expert in timberland valuations (e.g., a forestry consultant), the person chosen may not be a qualified independent timberland appraiser.

The Department has modified the definition of ''Independent Fiduciary'' in the exemption in response to JHMLIC's comments. Under the new definition, the language that was contained in Paragraph 10(h)(3) and (4) of the Notice has been changed to require that an Independent Fiduciary be an expert in timberland valuations, and have the ability to access (itself or through persons engaged by it) appropriate timberland sales comparison data. In addition, the requirements relating to an Independent Fiduciary being a qualified independent real estate appraiser who is proficient in timberland appraisal work (as described in Paragraph 10(h)(3) thru (5) of the Notice) have been deleted.

In response to further discussions with and comments from JHMLIC, the Department has also modified the criteria for an individual or firm to serve as an Independent Fiduciary when that individual or firm receives a significant amount of compensation from JHMLIC and its Affiliates for business with those entities during the current calendar year. Paragraph 10(h)(2) of the Notice stated that the individual or firm must not have received more than five (5) percent of its annual gross receipts during the preceding calendar year from business with JHMLIC and its Affiliates. Under the new definition of ''Independent Fiduciary'' in Paragraph 11(h)(2) of this exemption, no individual or firm may serve as an Independent Fiduciary during any year in which gross receipts received from business with JHMLIC and its Affiliates for that year exceed five (5) percent of such individual's or firm's gross receipts from all sources for the prior year.

Sixth, Paragraph 8 of the Notice limits the relief that would be provided under the exemption to those Accounts over which JHMLIC or an Affiliate is a ''discretionary investment manager.'' JHMLIC states that in a few situations involving timber assets managed through entities other than Separate Accounts, JHMLIC or an Affiliate has discretion to perform day-to-day management of the assets held in an Account but must obtain the Customer's approval for the purchase and sale of timber assets. JHMLIC notes that if the relief requested under the exemption is limited to Accounts over which JHMLIC has discretionary management authority, it will not be clear whether the exemption would cover purchases or sales of Timber Assets held in an Account for which JHMLIC must obtain the Customer's approval for such transactions.

In response to this comment, the Department has modified Paragraph 8 of the exemption as follows:

* * * JHMLIC or an Affiliate acts as a discretionary investment manager for the assets of the Accounts involved in each transaction, *provided that this condition will not fail to have been met solely because the Customer retains the right to veto or approve the purchase or sale of Timber Assets.* [emphasis added]

No other comments, and no requests for a hearing, were received by the Department.

Accordingly, the Department has determined to grant the exemption as modified herein.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Barclays Bank PLC (Barclays) Located in London, England

[Prohibited Transaction Exemption 98–62; Exemption Application No. D–10486]

Exemption

Section I. Covered Transactions

A. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective July 31, 1997, to any purchase or sale of a security between Barclays or any affiliate of Barclays which is a bank or a broker-dealer subject to British law (the Foreign Affiliate), and employee benefit plans (the Plans) with respect to which Barclays or the Foreign Affiliate is a party in interest, including options on securities written by the Plan, Barclays or the Foreign Affiliate, provided that the following conditions and the General Conditions of Section II, are satisfied:

(1) Barclays or the Foreign Affiliate customarily purchases and sells securities for its own account in the ordinary course of its business as a broker-dealer or bank.

(2) The terms of any transaction are at least as favorable to the Plan as those which the Plan could obtain in a comparable arm's length transaction with an unrelated party.

(3) Neither Barclays, the Foreign Affiliate, nor any of their affiliates thereof has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, or renders investment advice [within the meaning of 29 CFR 2510.3–21(c)] with respect to those assets, and Barclays or the Foreign Affiliate is a party in interest or disqualified person with respect to the Plan assets involved in the transaction solely by reason of section 3(14)(B) of the Act or section 4975(e)(2)(B) of the Code, or by reason of a relationship to a person described in such sections. For purposes of this paragraph, Barclays or the Foreign Affiliate shall not be deemed to be a fiduciary with respect to Plan assets solely by reason of providing securities custodial services for a Plan.

B. The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective July 31, 1997, to any extension of credit to a Plan by Barclays or the Foreign Affiliate to permit the settlement of securities transactions or in connection with the writing of options contracts or the purchase or sale of securities, provided that the following conditions and the General Conditions of Section II are satisfied:

(1) Barclays or the Foreign Affiliate is not a fiduciary with respect to the Plan assets involved in the transaction, or no interest or other consideration is received by Barclays, the Foreign Affiliate, or any of their affiliates in connection with such extension of credit.

(2) Any extension of credit would be lawful under the Securities Exchange Act of 1934 (the 1934 Act) and any rules or regulations thereunder if such Act, rules or regulations were applicable and would be lawful under applicable foreign law.

C. The restrictions of section 406(a)(1)(A) through (D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective July 31, 1997, to the lending of securities that are assets of a Plan to Barclays or the Foreign Affiliate, provided that the following conditions and the General Conditions of Section II are satisfied:

(1) Neither Barclays, the Foreign Affiliate nor any of their affiliates thereof has discretionary authority or

control with respect to the investment of Plan assets involved in the transaction, or renders investment advice [within the meaning of 29 CFR 2510.3–21(c)] with respect to those assets.

(2) The Plan receives from Barclays or the Foreign Affiliate, either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means, by the close of business on the day on which the securities lent are delivered to Barclays or the Foreign Affiliate, collateral consisting of U.S. currency, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, or irrevocable United States bank letters of credit issued by persons other than Barclays or the Foreign Affiliate (or any of their affiliates), or any combination thereof, having, as of the close of business on the preceding business day, a market value (or, in the case of letters of credit, a stated amount) equal to not less than 100 percent of the then market value of the securities lent. (The collateral referred to in this Section I(c)(2) must be in U.S. dollars or dollar-denominated securities or United States bank letters of credit and must be held in the United States.)

(3) The loan is made pursuant to a written loan agreement (the Loan Agreement), which may be in the form of a master agreement covering a series of securities lending transactions, and which contains terms at least as favorable to the Plan as those the Plan could obtain in an arm's length transaction with an unrelated party.

(4) In return for lending securities, the Plan either (i) receives a reasonable fee which is related to the value of the borrowed securities and the duration of the loan, or (ii) has the opportunity to derive compensation through the investment of cash collateral. In the latter case, the Plan may pay a loan rebate or similar fee to Barclays or the Foreign Affiliate, if such fee is not greater than the Plan would pay an unrelated party in a comparable arm's length transaction with an unrelated party.

(5) The Plan receives at least the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities that the Plan would have received (net of tax withholdings)[4] had it remained the record owner of such securities.

(6) If the market value of the collateral on the close of trading on a business day falls below 100 percent of the market value of the borrowed securities at the close of trading on that day, Barclays or the Foreign Affiliate delivers additional collateral, by the close of business on the following business day, to bring the level of the collateral back to at least 100 percent of the market value of all the borrowed securities as of such preceding day. Notwithstanding the foregoing, part of the collateral may be returned to Barclays or the Foreign Affiliate if the market value of the collateral exceeds 100 percent of the market value of the borrowed securities, as long as the market value of the remaining collateral equals at least 100 percent of the market value of the borrowed securities.

(7) Prior to the making of any securities loan, Barclays or the Foreign Affiliate furnishes to the independent fiduciary for the Plan who is making decisions on behalf of the Plan with respect to the lending of securities: (i) the most recently available audited and unaudited statements of its financial condition; and (ii) a representation by Barclays or the Foreign Affiliate that, as of each time it borrows securities, there has been no material adverse change in the its financial condition since the date of the most recently furnished financial statement that has not been disclosed to the Plan fiduciary.

(8) The Loan Agreement and/or any securities loan outstanding may be terminated by the Plan at any time, whereupon Barclays or the Foreign Affiliate delivers certificates for securities identical to the borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the Plan within (i) the customary delivery period for such securities; (ii) five business days; or (iii) the time negotiated for such delivery by the Plan and Barclays (or the Plan and the Foreign Affiliate), whichever is lesser, or, alternatively such period as permitted by Prohibited Transaction Exemption (PTE) 81–6 (43 FR 7527, January 23, 1981) as it may be amended.

(9) In the event that the loan is terminated and Barclays or the Foreign Affiliate fails to return the borrowed securities or the equivalent thereof within the time described in paragraph (8) above, then the Plan may purchase securities identical to the borrowed securities (or their equivalent as described above) and may apply the collateral to the payment of the purchase price, any other obligations of Barclays or the Foreign Affiliate under the Loan Agreement, and any expenses associated with the sale and/or purchase. Barclays or the Foreign Affiliate shall indemnify the Plan with respect to the difference, if any, between the replacement cost of the borrowed securities and the market value of the collateral on the date the loan is declared in default, together with expenses not covered by the collateral plus applicable interest at a reasonable rate. Notwithstanding the foregoing, Barclays or the Foreign Affiliate may, in the event they fail to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then-current market value of the collateral, provided that such replacement is approved by the independent plan fiduciary.

(10) The Plan maintains the situs of the Loan Agreement in accordance with the indicia of ownership requirements under section 404(b) of the Act and the regulations promulgated under 29 CFR 2550.404(b)–1. However, Barclays or the Foreign Affiliate shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the Plan fails to comply with the requirements of 29 CFR 2550.404(b)–1.

If Barclays or the Foreign Affiliate fails to comply with any condition of this exemption in the course of engaging in a securities lending transaction, the Plan fiduciary which caused the Plan to engage in such transaction shall not be deemed to have caused the Plan to engage in a transaction prohibited by section 406(a)(1)(A) through (D) of the Act solely by reason of the failure on the part of Barclays or the Foreign Affiliate to comply with the conditions of the exemption.

Section II. General Conditions

(a) Barclays is subject to regulation by the Bank of England.

(b) The Foreign Affiliate—

(1) Is subject to regulation by the Bank of England, or

(2) Is a registered broker-dealer subject to regulation by the Securities and Futures Authority of the United Kingdom (the UK SFA) and is in compliance with all applicable rules and regulations thereof.

(c) Barclays and the Foreign Affiliate are in compliance with all requirements of Rule 15a–6 (17 CFR 240.15a–6), which provides foreign broker-dealers a

[4] The Department notes the applicant's representation that dividends and other distributions on foreign securities payable to a lending Plan may be subject to foreign tax withholdings and that Barclays or the Foreign Affiliate will always put the Plan back in at least as good a position as it would have been in had it not lent the securities.

limited exemption from U.S. broker-dealer registration requirements, and Securities and Exchange Commission (the SEC) interpretations and amendments thereof to Rule 15a–6 under the 1934 Act, to the extent applicable.

(d) Prior to the transaction, Barclays or the Foreign Affiliate enters into a written agreement with the Plan in which Barclays or the Foreign Affiliate consents to the jurisdiction of the courts of the United States for any civil action or proceeding brought in respect of the subject transactions.

(e) Barclays or the Foreign Affiliate maintains, or causes to be maintained, within the United States for a period of six years from the date of such transaction such records as are necessary to enable the persons described in paragraph (f) of this Section II to determine whether the conditions of this exemption have been met except that—

(1) A party in interest with respect to a Plan, other than Barclays or the Foreign Affiliate, shall not be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) or (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph (e) of this Section II; and

(2) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of Barclays or the Foreign Affiliate, such records are lost or destroyed prior to the end of such six year period.

(f) Notwithstanding the provisions of subsections (a)(2) and (b) of section 504 of the Act, Barclays or the Foreign Affiliate makes the records referred to above in paragraph (e) of this Section II, unconditionally available for examination during normal business hours at their customary location to the following persons or an authorized representative thereof:

(1) The Department, the Internal Revenue Service or the SEC;

(2) Any fiduciary of a participating Plan;

(3) Any contributing employer to a Plan;

(4) Any employee organization any of whose members are covered by a Plan; and

(5) Any participant or beneficiary of a Plan.

However, none of the persons described above in paragraphs (f)(2)–(f)(5) of this Section II shall be authorized to examine trade secrets of Barclays or the Foreign Affiliate, or any commercial or financial information which is privileged or confidential.

(g) Upon request, notice of the proposed exemption and the final exemption, when available, is provided to any Plan which proposes to engage in transactions to which the exemptive relief described herein would apply.

Section III. Definitions

For purposes of this exemption,

(a) The term ''Barclays,'' means ''Barclays Bank PLC'' which is subject to regulation by the Bank of England.

(b) The term ''Foreign Affiliate'' means any affiliate of Barclays which is subject to regulation by the Bank of England or the UK SFA.

(c) The term ''affiliate'' of another person shall include:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner. (For purposes of this definition, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(d) The term ''security'' includes equities, fixed income securities, options on equity and on fixed income securities, government obligations, and any other instrument that constitutes a security under U.S. securities laws. The term ''security'' does not include swap agreements or other notional principal contracts.

EFFECTIVE DATE: This exemption is effective as of July 31, 1997.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption (the Notice) published on October 6, 1998 at 63 FR 53714.

Written Comments

The Department received one written comment with respect to the Notice. The comment, which was submitted by Barclays suggested modifications to the conditional language of the Notice as well as to the Summary of Facts and Representations (the Summary). These changes are discussed below.

Consistency With Recent Securities Lending Exemptions

1. *Section I.C., Condition (9).* In Section I.C. of the Notice, Condition (9) (at 53716) provides that if a securities loan is terminated and Barclays or the Foreign Affiliate fails to return such securities or the equivalent thereof, then the Plan may purchase securities that are identical to the borrowed securities. In addition, Barclays or the Foreign Affiliate is required to indemnify the Plan with respect to the difference, if any, between the replacement cost of the borrowed securities and the market value of the collateral on the date the loan is declared in default, together with expenses not covered by the collateral plus applicable interest at a reasonable rate.

To make the provisions of Condition (9) consistent with the securities lending exemptions granted to Morgan Stanley & Co., (PTE 97–08, 62 FR 4811, January 31, 1997) and to NatWest Securities Corporation (PTE 97–57, 62 FR 56203, October 29, 1997), Barclays suggests that the following sentence be inserted at the end of Condition (9) of Section I.C.:

> Notwithstanding the foregoing, Barclays or the Foreign Affiliate may, in the event they fail to return borrowed securities as described above, replace non-cash collateral with an amount of cash not less than the then-current market value of the collateral, provided that such replacement is approved by the independent plan fiduciary.

Barclays notes that the foregoing provision appears in PTE 97–08 at 4812 and in PTE 97–57 at 56204.

2. *Representation 10.* The third sentence in Representation 10 of the Summary (at 53718) states that Barclays or the Foreign Affiliate will be a party in interest with respect to a Plan involved in a principal transaction by reason of providing services to the Plan or by reason of a relationship to such service provider. To make this sentence consistent with PTE 97–8 (at 4811) and PTE 97–57 (at 56204) Barclays requests that the Department delete this sentence and replace it with the following:

> Further, Barclays represents that it or the Foreign Affiliate will be a party in interest or disqualified person with respect to the plan involved in the principal transaction solely by reason of section (3)(14)(B) of the Act or section 4975(e)(2)(B) of the Code (i.e., a service provider to the Plan) or by reason of a relationship to a person described in such sections.

Barclays notes that this change is consistent with PTEs 97–08 (at 4811) and PTE 97–57 (at 56204) and Section I.A., Condition (3) of the Notice (at 53715).

3. *Section II(g).* Section II(g) of the Notice (at 53716) requires that prior to any Plan's approval of any transaction, the Plan will be provided with copies of the Notice as proposed and as adopted in final form. However, Barclays states that neither PTE 97–08 nor PTE 97–57

contain a similar provision. Therefore, Barclays represents that it wishes to provide such communications upon request. Accordingly, Barclays proposes that Section II(g) be deleted and replaced with the following language:

> Upon request, notice of the proposed exemption and the final exemption, when available, is provided to any Plan which proposes to engage in transactions to which the exemptive relief described herein would apply.

Other Clarifications

In addition to the foregoing changes, Barclays requests the following clarifications to the Notice and the Summary:

1. *Section I.A., Condition (1).* In Section I.A. of the Notice, Condition (1) (at 53715) states that Barclays or the Foreign Affiliate customarily purchases or sells securities in the ordinary course of its business as a ''broker-dealer.'' Because it is a ''bank,'' Barclays has requested that the phrase ''or bank'' be inserted at the end of Condition (1). In addition, Barclays notes that this change is consistent with Representation 8 of the Summary (at 53718).

2. *Section I.B., Condition (1).* In Section I.B. of the Notice, Condition (1) (at 53715) requires that Barclays or the Foreign Affiliate not be a fiduciary with respect to any Plan assets, unless no interest or other consideration is received by Barclays, the Foreign Affiliate, or any of their affiliates in connection with such extension of credit.

Barclays requests that this condition be replaced with the following language which will make it consistent with Representation 12 of the Summary (at 57318):

> Barclays or the Foreign Affiliate is not a fiduciary with respect to the Plan assets involved in the transaction, or no interest or other consideration is received by Barclays, the Foreign Affiliate or any of their affiliates in connection with such extension of credit.

3. *Section I.C., Condition (2).* In Section I.C. of the Notice Condition (2) (at 53715) describes the collateralization requirements with respect to securities loans that are made by a Plan to Barclays or the Foreign Affiliate. In pertinent part, the condition states that the Plan may receive securities loan collateral from Barclays or the Foreign Affiliate, either by physical delivery or by book entry in a securities depository located in the United States. To make this language consistent with Representation 17 of the Summary (at 53719), Barclays requests that the Department revise the language at the beginning of Condition (2) to read as follows:

> The Plan receives from Barclays or the Foreign Affiliate, either by physical delivery, book entry in a securities depository located in the United States, wire transfer or similar means * * *.

4. *Representation 3.* The second sentence of representation 3 of the Summary (at 53717) discusses principal and extension of credit transactions engaged in by Barclays and the Foreign Affiliate. It states that ''such transactions are currently being executed between a Plan and Barclays or a Plan and a Foreign Affiliate in transactions which generally meet the applicable requirements of PTE 75–1, Part II (Involving Principal Transactions) and Part V (involving Extensions of Credit (40 FR 50845, October 31, 1975).''

To avoid ambiguity, Barclays proposes that this sentence be deleted and replaced with the following language:

> Barclays and the Foreign Affiliate currently engage in the purchase or sale of securities and extensions of credit in connection with such purchases and sales of securities in the normal course of their business as broker-dealers or banks.

5. *Representation 6.* Representation 6 of the Summary (at 53717–18) describes Rule 15a–6 of the 1934 Act and its applicability to and compliance by Barclays and the Foreign Affiliate with the Rule's requirements. Barclays requests that references to the term ''U.S. major institutional investor'' and references to the term ''major institutional investor'' be changed to ''major U.S. institutional investor'' in order to be consistent with Rule 15a–6.

In addition, for purposes of clarification, Barclays requests that the following sentence be inserted at the beginning of Footnote 15 of the Summary (at 53717):

> Note that the categories of entities that qualify as ''major U.S. institutional investors'' has been expanded by a Securities and Exchange Commission No-Action letter.

Further, to avoid ambiguity, Barclays proposes that the reference to ''paragraphs (a) and (b)'' above referred to in Footnote 16 of the Summary (at 53718) be changed to read ''subparagraphs (a) and (b) of Representation 6.''

The Department concurs with the modifications and clarifications to the Notice that have been suggested by Barclays and has, therefore, made all of the requested changes. For further information regarding Barclays's comment or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10486) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Accordingly, after giving full consideration to the entire record, including the written comment provided by the Barclays, the Department has made the aforementioned changes to the Notice and has decided to grant the exemption subject to the modifications or clarifications described above.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 21st day of December, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–34109 Filed 12–23–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–169]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee.

DATES: Thursday, January 21, 1999, 9:00 a.m. to 5:00 p.m.; and Friday, January 22, 1999, 8:00 a.m. to 12:00 noon.

ADDRESSES: National Aeronautics and Space Administration, Room 7H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Ellen McGrath, Office of Aeronautics and Space Transportation Technology, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4729).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics and Space Transportation Technology Overview
—NASA's Aviation Environmental Compatibility Research
—University Strategy Recommendations
—Subcommittee Reports
—FAA/NASA Partnership Agreement
—FAA/NASA Executive Committee Activities

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: December 18, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–34069 Filed 12–23–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–168]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Information Technology Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Information Technology Subcommittee.

DATES: Wednesday, January 27, 1999, 8:30 a.m. to 5:00 p.m. and Thursday, January 28, 1999, 8:30 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Building 258, Room 221, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene L. Tu, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650/604–4486.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Information Technology Overview
—Analysis Tools and Environments for Design
—Numerical Propulsion System Simulator
—Surface Measurements, Aeroacoustics, and Flow Quality
—Discussions

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: December 18, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–34143 Filed 12–23–98; 8:45 am]

BILLING CODE 7516–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE (98–170)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Associated Technical Management Corporation of Texarkana, Arkansas, has applied for an exclusive license to practice the invention described and claimed in a pending U.S. patent application entitled ''Multi Spectral Imaging System,'' NASA Case No. SSC–00048 which is 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 Kennedy Space Center.

DATE: Responses to this Notice must be received February 22, 1999.

FOR FURTHER INFORMATION CONTACT: Beth A. Vrioni, Patent Counsel, John F. Kennedy Space Center, Mail Code MM–E, Kennedy Space Center, FL 32899, telephone (407) 867–6225.

Dated: December 18, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–34154 Filed 12–23–98; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE

Public Meeting

Establishment of the Medicare Commission included in Chapter 3, Section 4021 of the Balanced Budget Act of 1997 Conference Report. The Medicare Commission is charged with holding public meetings and publicizing the date, time and location in the **Federal Register**.

The National Bipartisan Commission on the Future of Medicare will hold a public meeting on Tuesday, January 6, 1999 at the Dirksen Senate Office Building, Room 106, Washington, DC. Please check the Commission's web site for additional information: http//Medicare.Commission.Gov

Tuesday, January 5, 1999: 1:30 p.m.–5 p.m.

Tentative Agenda: Members of the Commission to discuss pending issues.

The Medicare Commission will continue its meeting on January 6th, convening at 9 a.m. in the Dirksen Senate Office Building, Room 106.

If you have any questions, please contact the Bipartisan Commission, ph: 202–252–3380.

I hereby authorize publication of the Medicare Commission meetings in the **Federal Register**.

Julie Hasler,

Office Manager, National Bipartisan Medicare Commission.

[FR Doc. 98–34156 Filed 12–23–98; 8:45 am]

BILLING CODE 1132–00–M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Nancy E. Weiss, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* January 5, 1999.
*Time:*9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in Early American History, submitted to the Division of Research and Education at the September 1, 1998 deadline.

2. *Date:* January 6, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in Europe and the Middle East, submitted to the Division of Research and Education at the September 1, 1998 deadline.

3. *Date:* January 7, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in Near Eastern, Classical, and Medieval Studies in Research and Education, submitted to the Division of Research and Education at the September 1, 1998 deadline.

4. *Date:* January 8, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs at the November 2, 1998 deadline.

5. *Date:* January 8, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in Space, Place, and Culture, submitted to the Division of Research and Education at the September 1, 1998 deadline.

6. *Date:* January 11, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications for Collaborative Research in US and Latin American History and Politics, submitted to the Division of Research and Education at the September 1, 1998 deadline.

7. *Date:* January 11, 1999.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review applications for Humanities Projects in Museums and Historical Organizations, submitted to the Division of Public Programs at the November 2, 1998 deadline.

8. *Date:* January 11, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Education Development and Demonstration in Languages, submitted to the Division of Research and Education at the October 15, 1998 deadline.

9. *Date:* January 13, 1999.
Time: 8:30 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review applications for Education Development and Demonstration in Anthropology, Archaeology, and Historic Preservation, submitted to the Division of Research and Education at the October 15, 1998 deadline.

10. *Date:* January 13, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Education Development and Demonstration in Anthropology, Archaeology, and Historic Preservation, submitted to the Division of Research and Education at the October 15, 1998 deadline.

11. *Date:* January 15, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Education Development and Demonstration in American Studies II, submitted to the Division of Research and Education at the October 15, 1998 deadline.

12. *Date:* January 20, 1999.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Education Development and Demonstration in Humanities and Social Sciences, submitted to the Division of Research and Education at the October 15, 1998 deadline.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 98–34062 Filed 12–23–98; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 61—Licensing Requirements for Land Disposal of Radioactive Waste.

3. How often the collection is required: Applications for licenses are submitted once. Applications for renewals or amendments are submitted as needed. Other reports are submitted annually and as other events require.

4. Who will be required or asked to report: Applicants for and holders of an NRC license for land disposal of low-level radioactive waste, and all generators, collectors, and processors of

low-level waste intended for disposal at a low-level waste facility.

5. The number of annual respondents: 7.

6. The number of hours needed annually to complete the requirement or request: 374 hours for reporting (approximately 3.4 hours per response) plus 4513 hours for recordkeeping (approximately 645 hours per recordkeeper). The industry total burden is 4887 hours annually.

7. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

8. Abstract: 10 CFR Part 61 establishes the procedures, criteria, and license terms and conditions for the land disposal of low-level radioactive waste. Reporting and recordkeeping requirements are mandatory or, in the case of application submittals, are required to obtain a benefit. The information collected in the applications, reports, and records is evaluated by the NRC to ensure that the licensee's or applicant's physical plant, equipment, organization, training, experience, procedures and plans provide an adequate level of protection of public health and safety, common defense and security, and the environment.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by January 25, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Erik Godwin,

Office of Information and Regulatory Affairs (3150–0135) NEOB–10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 14th day of December 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–34120 Filed 12–23–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Energy Corporation; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 300 to Facility Operating License No. DPR–38, Amendment No. 300 to Facility Operating License No. DPR–47, and Amendment No. 300 to Facility Operating License No. DPR–55, issued to the Duke Energy Corporation, which revised the Technical Specifications for operation of the Oconee Nuclear Station, Units 1, 2, and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance and shall be implemented following completion of the associated training program, but no later than April 30, 1999.

The amendments implement a full conversion of the Oconee Nuclear Station Technical Specifications (TS) to a set of TS based on NUREG–1430, ''Standard Technical Specifications Babcock and Wilcox Plants,'' Revision 1, April 1995, and on guidance provided in the Commission's ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132), and Title 10 of the *Code of Federal Regulations,* Section 50.36, as amended July 19, 1995 (60 FR 36953). The amendments also grant requests for the following additional ITS items: (a) October 7, 1998 (63 FR 53945) and (b) November 12, 1998 (63 FR 63333). In addition, the amendments add license conditions to Appendix C (Units 1, 2, and 3) of the operating licenses that address (1) relocation of certain requirements to licensee-controlled documents, (2) performance of new surveillance requirements, and (3) performance of a new surveillance for verification of correct valve position for valves that are inaccessible. The implementation of the amendments and the license conditions will be followed by the completion of the associated training program, but no later than April 30, 1999.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on December 5, 1997 (62 FR 64405). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (63 FR 67717 dated December 8, 1998).

For further details with respect to the action see (1) the application for amendments dated October 28, 1997, and supplemented March 26, May 20, July 29, August 13, October 1, October 21, October 28, November 23, December 3, and December 15, 1998, (2) Amendment Nos. 300, 300, and 300 to License Nos. DPR–38, DPR–47, and DPR–55, respectively, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Dated at Rockville, Maryland, this 16th day of December 1998.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–34122 Filed 12–23–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Entergy Operations Inc.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Entergy Operations, Inc. (the licensee) to withdraw its December 12, 1997, application for proposed amendment to Facility Operating License No. DPR–51 for Arkansas Nuclear One, Unit No. 1, located in Pope County, Arkansas.

The proposed amendment would have established an alternate repair criteria for the segment of steam generator tubes that are located within the upper tube sheet.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 11, 1998 (63 FR 6984). However, by letter dated December 15, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated December 12, 1997, and the licensee's letter dated December 15, 1998, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Dated at Rockville, Maryland, this 17th day of December, 1998.

For the Nuclear Regulatory Commission.

Nicholas D. Hilton,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–34121 Filed 12–23–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

San Onofre Nuclear Generating Station, Units 2 and 3; Notice of Withdrawal of Application for Amendements to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Southern California Edison Company (the licensee) to withdraw its July 29, 1996, application for proposed amendments to Facility Operating License Nos. NPF–10 and NPF–15 for the San Onofre Nuclear Generating Station, Units 2 and 3 (SONGS), located in San Diego County, California.

The proposed amendment would have revised Technical Specification (TS) 3.7, ''Plant Systems,'' and TS 4.3, ''Fuel Storage,'' to permit an increase in the licensed storage capacity of the spent fuel pools.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 11, 1998 (63 FR 6992). However, by letter dated December 7, 1998, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated July 29, 1996, and the licensee's letter dated December 7, 1998, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 16th day of December 1998.

For The Nuclear Regulatory Commission.

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–34123 Filed 12–23–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG—1600]

Policy and Procedure for Enforcement Actions; Fuel Cycle Facilities Civil Penalties and Notices of Enforcement Discretion

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Amendment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its ''General Statement of Policy and Procedure for NRC Enforcement Actions'' (NUREG–1600) to increase the base civil penalties for fuel cycle facilities authorized to possess certain quantities of special nuclear material and to authorize issuance of Notices of Enforcement Discretion to Gaseous Diffusion Plants.

EFFECTIVE DATE: This action is effective December 24, 1998. Comments are due on or before January 25, 1999.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–2741.

SUPPLEMENTARY INFORMATION:

The Commission's ''General Statement of Policy and Procedure for NRC Enforcement Actions'' (Enforcement Policy or Policy) was first issued on September 4, 1980. Since that time, the Enforcement Policy has been revised on a number of occasions. On May 13, 1998 (63 FR 26630), the Enforcement Policy was revised and was re-published as NUREG–1600, Rev. 1. The Policy primarily addresses violations by licensees and certain non-licensed persons, including certificate holders, as discussed further in footnote 3 to Section I, Introduction and Purpose, and in Section X: Enforcement Action Against Non-licensees.

Fuel Cycle Facility Base Penalties

Base civil penalties are established for fuel facility licensees commensurate with the relative safety and safeguards risks among the different types of licensees. The base civil penalties, as currently defined in Table 1A of the General Statement of Policy and Procedure for Enforcement Actions (Enforcement Policy) (NUREG–1600, Rev. 1), are, in part: $11,000 for uranium conversion facilities which handle only source material; $27,500 for all fuel fabricators regardless of the specific safety and safeguards risks involved with the possession and processing of different enrichments of SNM; and $110,000 for the Gaseous Diffusion Plants due to their greater nuclear material inventories and greater potential consequences to the public and workers. The civil penalty structure generally takes into account the gravity of the violation as a primary consideration and the ability to pay as a secondary consideration.

Generally, the safety risk is greater at the Category I and II facilities than at Category III facilities [1] because the enrichment levels normally handled at the Category I and II facilities require only minor changes in form and composition to achieve an inadvertent criticality. Thus, workers at Category I and II facilities are potentially exposed to a greater risk from radiological

[1] The category of a facility refers to the quantity and enrichment of special nuclear material that a licensee is authorized to possess. See 10 CFR 70.4.

hazards than workers at Category III facilities. The safeguards risk is also considered to be significantly higher because of concerns about diversion or theft of formula quantities of strategic special nuclear material. Such potential diversion or theft represents a significant national security risk and hazard to the public. Therefore, the Commission believes that it is appropriate to reflect the relatively more significant safety and safeguards risks with operating a Category I or II facility in the civil penalty structure. The Commission is increasing the base civil penalty for facilities authorized to possess Category I or II quantities of SNM from $27,500 to $55,000 by adding a new category to Table 1A of the Enforcement Policy. As is the current policy, the amount for safeguards violations will be the same as for other violations at these facilities. There are two Category I facilities that would be affected by this change: BWX Technologies, Inc. and Nuclear Fuel Services, Inc. There are no Category II fuel facilities in operation at this time.

Notices of Enforcement Discretion at Gaseous Diffusion Plants (GDPs)

Section VII.C. of the Enforcement Policy authorizes the staff to exercise discretion and not enforce an applicable Technical Specification (TS) Limiting Condition of Operation or other license condition for an operating reactor facility when it would involve an unnecessary plant transient or performance of testing, inspection, or system realignment that is inappropriate for the specific plant conditions. This enforcement discretion is designated as a Notice of Enforcement Discretion (NOED) and is to be exercised only if the staff is satisfied that the action is consistent with protecting the public health and safety.

The Commission believes that this enforcement option is also warranted for GDPs because GDPs, unlike other fuel cycle facilities, have Technical Safety Requirements (TSRs) with Limiting Conditions for Operation (LCOs) that impose time limits for performing required actions under specified conditions. A Notice of Enforcement Discretion would be used in cases where compliance with a certificate condition would unnecessarily call for a total plant shutdown or, notwithstanding that a safety, safeguards or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required. This regulatory flexibility is needed because a plant-wide shutdown is not necessarily the best response to a plant condition. Further, the NRC has been informed by the certificate holder that restart from a total plant shutdown may not be practical, as GDPs are designed to operate 24 hours a day, 7 days a week, and have never been shut down. Although portions can be shut down for maintenance or other reasons, the operators have indicated that if an entire plant were shut down, it probably could not be restarted. Hence, the decision to place either GDP in plant-wide shutdown condition would be made only after determining that there is inadequate safety, safeguards, or security, and considering the total impact of the shutdown on public health and safety, and security, and the environment. Therefore, the Commission is adding language to its Enforcement Policy that would expressly permit exercise of enforcement discretion and issuance of NOEDs for GDPs.

In practice, a NOED could be issued for the period of time required for staff to process, and make effective, an expedited certificate amendment, but not to exceed 120 days, or when a noncompliance is nonrecurring and a certificate amendment would not be practical because the plant would be returned to compliance with the existing certificate condition in so short a period of time that an amendment could not be processed and issued before compliance is restored. Use of the NOED would be at the staff's option for infrequent, unanticipated cases where there are adequate safety, safeguards, and security, and involving: (1) An unwarranted plant transient or condition; or (2) an omission or performance of testing, inspection, or system realignment that is inappropriate for the specific plant condition. A NOED would not be used for noncompliances with statutes or regulations, or for situations where the certificate holder cannot demonstrate adequate safety, safeguards or security.

Paperwork Reduction Act

This final policy statement amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval number 3150–0136.

The public reporting burden for this information collection is estimated to average 60 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments on any aspect of this information collection, including suggestions for reducing the burden, to the Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0136), Office of Management and Budget, Washington, DC 20503.

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.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not ''a major'' rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Accordingly, the NRC Enforcement Policy is amended by revising Table 1A of Section VI and Section VII.C. to read as follows:

General Statement of Policy and Procedure for NRC Enforcement Actions

* * * * *

VI. Enforcement Actions

* * * * *

TABLE 1A.—BASE CIVIL PENALTIES

a. Power reactors and gaseous diffusion plants	$110,000
b. Fuel fabricators authorized to possess Category I or II quantities of SNM	55,000
c. Fuel fabricators authorized to possess Category III quantities of SNM, industrial processors,[1] and independent spent fuel and monitored retrievable storage installations	27,500
d. Test reactors, mills and uranium conversion facilities, contractors, waste disposal licensees, industrial radiographers, and other large material users	11,000

TABLE 1A.—BASE CIVIL PENALTIES—Continued

e. Research reactors, academic, medical, or other small material users [2]	5,500

[1] Large firms engaged in manufacturing or distribution of byproduct, source, or special nuclear material.
[2] This applies to nonprofit institutions not otherwise categorized in this table, mobile nuclear services, nuclear pharmacies, and physician offices.

* * * * *

VII. Exercise of Discretion

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C. Exercise of Discretion for an Operating Facility or a Gaseous Diffusion Plant

On occasion, circumstances may arise where a licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or with other license conditions would involve an unnecessary plant transient or performance of testing, inspection, or system realignment that is inappropriate with the specific plant conditions, or unnecessary delays in plant startup without a corresponding health and safety benefit. Similarly, for a gaseous diffusion plant (GDP), circumstances may arise where compliance with a Technical Safety Requirement (TSR) or technical specification or other certificate condition would unnecessarily call for a total plant shutdown or, notwithstanding that a safety, safeguards or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required.

In these circumstances, the NRC staff may choose not to enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion, designated as a Notice of Enforcement Discretion (NOED), will only be exercised if the NRC staff is clearly satisfied that the action is consistent with protecting the public health and safety. A licensee or certificate holder seeking the issuance of a NOED must provide a written justification, or in circumstances where good cause is shown, oral justification followed as soon as possible by written justification, which documents the safety basis for the request and provides whatever other information the NRC staff deems necessary in making a decision on whether to issue a NOED.

The appropriate Regional Administrator, or his or her designee, may issue a NOED where the noncompliance is temporary and nonrecurring when an amendment is not practical. The Director, Office of Nuclear Reactor Regulation or Office of Nuclear Materials Safety and Safeguards, as appropriate, or his or her designee, may issue a NOED if the expected noncompliance will occur during the brief period of time it requires the NRC staff to process an emergency or exigent license amendment under the provisions of 10 CFR 50.91(a)(5) or (6) or a certificate amendment under 10 CFR 76.45. The person exercising enforcement discretion will document the decision.

For an operating reactor, this exercise of enforcement discretion is intended to minimize the potential safety consequences of unnecessary plant transients with the accompanying operational risks and impacts or to eliminate testing, inspection, or system realignment which is inappropriate for the particular plant conditions. For plants in a shutdown condition, exercising enforcement discretion is intended to reduce shutdown risk by, again, avoiding testing, inspection or system realignment which is inappropriate for the particular plant conditions, in that, it does not provide a safety benefit or may, in fact, be detrimental to safety in the particular plant condition. Exercising enforcement discretion for plants attempting to startup is less likely than exercising it for an operating plant, as simply delaying startup does not usually leave the plant in a condition in which it could experience undesirable transients. In such cases, the Commission would expect that discretion would be exercised with respect to equipment or systems only when it has at least concluded that, notwithstanding the conditions of the license: (1) The equipment or system does not perform a safety function in the mode in which operation is to occur; (2) the safety function performed by the equipment or system is of only marginal safety benefit, provided remaining in the current mode increases the likelihood of an unnecessary plant transient; or (3) the TS or other license condition requires a test, inspection or system realignment that is inappropriate for the particular plant conditions, in that it does not provide a safety benefit, or may, in fact, be detrimental to safety in the particular plant condition.

For GDPs, the exercise of enforcement discretion would be used where compliance with a certificate condition would involve an unnecessary plant shutdown or, notwithstanding that a safety, safeguards or security feature was degraded or inoperable, compliance would unnecessarily place the plant in a transient or condition where those features could be required. Such regulatory flexibility is needed because a total plant shutdown is not necessarily the best response to a plant condition. GDPs are designed to operate continuously and have never been shut down. Although portions can be shut down for maintenance, the staff has been informed by the certificate holder that restart from a total plant shutdown may not be practical and the staff agrees that the design of a GDP does not make restart practical. Hence, the decision to place either GDP in plant-wide shutdown condition would be made only after determining that there is inadequate safety, safeguards, or security and considering the total impact of the shutdown on safety, the environment, safeguards, and security. A NOED would not be used for noncompliances with other than certificate requirements, or for situations where the certificate holder cannot demonstrate adequate safety, safeguards, or security.

The decision to exercise enforcement discretion does not change the fact that a violation will occur nor does it imply that enforcement discretion is being exercised for any violation that may have led to the violation at issue. In each case where the NRC staff has chosen to issue a NOED, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the noncompliance for which enforcement discretion was used. The enforcement action is intended to emphasize that licensees and certificate holders should not rely on the NRC's authority to exercise enforcement discretion as a routine substitute for compliance or for requesting a license or certificate amendment.

Finally, it is expected that the NRC staff will exercise enforcement discretion in this area infrequently. Although a plant must shut down, refueling activities may be suspended, or plant startup may be delayed, absent the exercise of enforcement discretion, the NRC staff is under no obligation to take such a step merely because it has been requested. The decision to forego enforcement is discretionary. When enforcement discretion is to be exercised, it is to be exercised only if the NRC staff is clearly satisfied that such action is warranted from a health and safety perspective.

* * * * *

Dated at Rockville, Maryland, this 18th day of December, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98–34118 Filed 12–23–98; 8:45 am]

BILLING CODE 7590–01–P

UNITED STATES NUCLEAR REGULATORY COMMISSION

[Docket No. 50–263]

Northern States Power Company; (Monticello Nuclear Generating Plant); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–22, issued to Northern States Power Company (NSP, or the licensee), for operation of the Monticello Nuclear Generating Plant, located in Wright County, Minnesota.

Environmental Assessment

Identification of the Proposed Action

The proposed action would make a number of administrative clarifications and corrections, title changes, and typographical corrections to the Technical Specifications.

The proposed action is in accordance with the licensee's application for amendment dated August 15, 1996, as supplemented March 19 and October 12, 1998.

The Need for the Proposed Action

The proposed action would provide clarity and administrative correctness to the Technical Specifications.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the modifications to the Technical Specifications are administrative in nature.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Impact Statement for Monticello.

Agencies and Persons Consulted

In accordance with its stated policy, on November 12, 1998, the staff consulted with the Minnesota State official, Mr. M. McCarthy of the Department of Public Service, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 15, 1996, as supplemented by letters dated March 19 and October 12, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 17th day of December, 1998.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Project Directorate III–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–34119 Filed 12–23–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System; Nuclear Project No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–21, issued to the Washington Public Power Supply System (the licensee) for operation of the Nuclear Project No. 2 (WNP–2) located in Benton County, Washington.

Environmmental Assessment

Identification of the Proposed Action

The proposed action would change Facility Operating License No. NPF–21 to authorize the storage of byproduct, source, and special nuclear materials at the WNP–2 site which are specifically not intended for use at the site. The proposed action is in accordance with the licensee's application for amendment dated October 10, 1996, as supplemented by letter dated November 9, 1998.

The Need for the Proposed Action

The proposed action is necessary because certain licensed materials previously acquired as part of the deferred WNP–1 and WNP–3 projects are being controlled at WNP–2, but are not required for use at the WNP–2 site. The WNP–1 materials are under the scope of Materials License 46–17694–02 and the WNP–3 materials are under the scope of Facility Operating License NPF–21. The licensee, however, has given notice that the WNP–1 and WNP–3 projects are being terminated and a formal request has been filed for termination of the WNP–3 Construction Permit.

The licensee has determined that there is currently no market for the materials and has determined that permanent disposal is economically impractical. Storage under the WNP–2 Operating License which currently provides for possession and use of these types of materials as required for WNP–2, is the remaining option. This option does not present WNP–2 with any significant burden because operation of WNP–2 involves a continuing use and storage of these types of licensed materials.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there are no significant environmental impacts associated with the proposed amendment. The amendment would permit certain byproduct, source and special nuclear material already present at the site to be stored at the site.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant

environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for WNP–2.

Agencies and Persons Consulted

In accordance with its stated policy, on December 17, 1998, the staff consulted with the Washington State official, Mr. R. Cowley of the Department of Health, State of Washington Energy Facility Site Evaluation Council, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 10, 1996, as supplemented by letter dated November 9, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 18th day of December 1998.

For the Nuclear Regulatory Commission.

Mel B. Fields,

Project Manager, Project Directorate IV–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–34124 Filed 12–23–98; 8:45 am]

BILLING CODE 7590–01–P

PRESIDIO TRUST

Letterman Complex, The Presidio of San Francisco, California; Notice of Intent to Prepare a Supplemental Environmental Impact Statement

AGENCY: The Presidio Trust.

ACTION: Notice of intent to prepare a supplemental environmental impact statement for the proposed development and occupancy of 900,000 square feet of new mixed use space within the Letterman Complex, the Presidio of San Francisco.

SUMMARY: The Presidio Trust will prepare a supplemental environmental impact statement (EIS) for the development and occupancy of approximately 900,000 square feet of new, low- to mid-rise mixed use space within the 60-acre Letterman Complex, located in the northeast corner of the Presidio of San Francisco, California. The development scenario includes deconstruction of the outdated 451,000-square-foot Letterman Army Medical Center (LAMC) and 356,000-square-foot Letterman Army Institute of Research (LAIR), and several other non-historic structures located within the Letterman Complex.

DATES: Comments concerning this notice must be received by February 15, 1999. A public workshop to solicit comment regarding the range of alternatives and the specific impacts to be evaluated in the supplemental EIS will be held on January 27, 1999, from 6 to 9 p.m., at the Presidio Golden Gate Club, Fisher Loop, the Presidio of San Francisco, California.

ADDRESSES: Written comments concerning this notice must be sent to John Pelka, NEPA Compliance Coordinator, The Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Fax: 415–561–5315. E-mail: jpelka@presidiotrust.gov.

FOR FURTHER INFORMATION CONTACT: John Pelka, NEPA Compliance Coordinator, The Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052. Telephone: 415–561–5300.

SUPPLEMENTARY INFORMATION:

Background

The supplemental EIS will tier from the 1994 Presidio General Management Plan Amendment (GMPA) final EIS pursuant to 40 CFR 1508.28. The GMPA EIS analyzed alternative development concepts for the future of the Presidio, including a specific proposal for the Letterman Complex. Because the proposed development within the Letterman Complex would involve deconstruction, new construction, ground disturbance and potential uses that were not previously examined in the GMPA EIS, the Presidio Trust has concluded that additional analysis is appropriate and will further the purposes of the National Environmental Policy Act of 1969.

Alternatives

The supplemental EIS will evaluate the following alternative development concepts for the site:

1. Research/Education (Presidio GMPA Alternative)
2. Office/Education/Housing/Inn/Retreat
3. Office/Conference Center/Hotel
4. Office/Housing
5. Office/Education
6. No Action

These concepts are based in part on the proposals received and shortlisted by the Presidio Trust in response to its Request for Qualifications (RFQ) for use of the site. The concepts differ primarily with regard to their size and type of project, proposed activities, programs and occupants, community support services and housing opportunities, and access and circulation. The Presidio Trust will identify a preferred alternative following its review of the supplemental EIS and other information.

Public Comment

In order to facilitate public input regarding the range of potential uses at the site, the Presidio Trust conducted a series of public meetings during the RFQ response period (August 14, 1998 through October 12, 1998). These public meetings included two public workshops and one formal meeting of the Golden Gate National Recreation Area (GGNRA) Advisory Commission. A front-page article describing the RFQ process for the Letterman Complex was also featured in the September issue of Presidio, the monthly publication of the Presidio Trust.

The Presidio Trust will announce the release of the draft supplemental EIS for public comment by notice in the **Federal Register** and in local news media. The Presidio Trust also anticipates that the GGNRA Advisory Commission will place this item on the agenda of an upcoming public meeting, which will be announced in the **Federal Register** and in local news media.

Dated: December 18, 1998.

Karen A. Cook,

General Counsel.

Reference: 40 CFR 1508.22.

[FR Doc. 98–34098 Filed 12–23–98; 8:45 am]

BILLING CODE 4310–4R–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23611]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

December 18, 1998.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of December, 1998. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., NW, Washington, DC 20549 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 12, 1999, and should be accompanied by proof of service on the applicant, 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 Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulations, Mail Stop 5–6, 450 Fifth Street, NW, Washington, DC 20549.

Inventor Funds, Inc. [File No. 811–8486]

Summary: Applicant requests an order declaring that it has ceased to be an investment company. On or before May 31, 1996, all of the outstanding shares of two series of applicant, the Prime Obligations Money Market Fund and the Treasury Securities Money Market Fund, were liquidated at their net asset value (''Liquidation''). On September 6, 1996, the remaining series of applicant were acquired by certain series of The Armada Funds (''Reorganization''). The Armada Funds and its investment adviser bore the expenses of the Reorganization, which were approximately $470,000. Applicant did not incur any expenses in connection with the Liquidation or Reorganization.

Filing Dates: The application was filed on June 4, 1997, and amended on September 26, 1997, September 1, 1998 and December 8, 1998.

Applicant's Address: 32 South Street, Baltimore, MD 21202.

First ING of New York Separate Account A1 [File No. 811–8700]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has previously redeemed all outstanding securities and has no existing security holders.

Filing Dates: The application was filed on September 24, 1998, and amended and restated on November 16, 1998.

Applicant's Address: 225 Broadway, Suite 1901, New York, New York 10007.

MuniYield Insured Fund II, Inc. [File No. 811–7158]

Summary: Applicant requests an order declaring that it has ceased to be an investment company. On January 27, 1997, applicant transferred all of its assets and liabilities to MuniYield Insured Fund, Inc. (''Insured I'') in exchange for shares of common stock and shares of auction market preferred stock (''AMPS'') of Insured I. Each holder of applicant's common stock received the number of shares of Insured I common stock with a net asset value (''NAV'') equal to the NAV of applicant's common stock held by such shareholder, and each holder of applicant's AMPS received the number of shares of Insured I AMPS with an aggregate liquidation preference equal to the aggregate liquidation preference of applicant's AMPS owned by such shareholder. The approximate expenses related to the transaction, which were borne by Insured I, were $217,000. Applicant and Insured I each have been named as a defendant in *Green, et al.* v. *Fund Asset Management, L.P., et al.*, CA. No. 96–11276NG. Applicant's investment adviser, Fund Asset Management, L.P. has agreed to indemnify the named defendant funds for any liabilities or expenses that they may incur in connection with this litigation.

Filing Dates: The application was filed on April 15, 1997, and amended on September 9, 1997, and November 24, 1998.

Applicant's Address: 800 Scudders Mill Road, Plainsboro, NJ 08536.

The Fontaine Trust [811–5835]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 18, 1998, each of applicant's three series, Fontaine Capital Appreciation Fund, Fontaine Global Growth Fund, and Fontaine Global Income Fund (collectively, the ''Acquired Funds''), transferred substantially all of its assets and liabilities to a corresponding series of Nicholas-Applegate Mutual Funds (''NA Funds''), in exchange for shares of the corresponding NA Fund based on net asset value. Nicholas-Applegate Capital Management, investment adviser to the NA Funds, paid approximately $65,000, each NA Fund paid $12,500, and Richard Fontaine Associates, Inc., investment adviser to the Acquired Funds, paid approximately $10,000 in expenses in connection with the reorganization.

Filing Dates: The application was filed on October 30, 1998, and amended on December 17, 1998.

Applicant's Address: 210 West Pennsylvania Avenue, Suite 240, Towson, Maryland 21204.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 98–34129 Filed 12–23–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40803; File No. SR–AMEX–98–45]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Margin Treatment of Grand Exchange-Traded Fund Share Options Contracts

December 17, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 25, 1998, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to permit each ''Grand'' Exchange-Traded Fund Share[3] (Fund Share) option contract to be recognized to the same extent that 10 ordinary Fund Share option contracts would be recognized under Amex Rule 462-Minimum Margins.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 1, 1998, the Exchange approval to trade options overlying Exchange-Traded Fund Shares and to trade an option contract overlying 1000 Exchange-Traded Fund Shares (the ''Grand'') option contract.[4] The Exchange now proposes to permit each ''Grand'' Exchange-Traded Fund Share option contract to be recognized to the same extent as 10 ordinary Fund Share option contracts under Amex Rule 462-Minimum Margins.[5] The Grand contract overlies 1,000 of the underlying Fund Shares, the same number of shares of the underlying security represented by 10 of the ordinary Fund Share option contracts (each of which overlies 100 shares of an underlying Fund Share). Accordingly, holding the Grand option contract is the economic equivalent of holding 10 ordinary option contracts. The only difference is that upon exercise, the Grand requires delivery of the 1,000 Fund Shares underlying the contract; a position in 10 ordinary contracts may be exercised incrementally, resulting in delivery of as few as 100 Fund Shares at a time.

Currently, Amex Rules 462(d)(2)(F) and (G) recognize the reduced risk associated with an account holding a ''straddle'' or a ''spread'' position by providing for margin requirements specific to the particular strategy a (straddle or spread). For example, in the case of a spread strategy (i.e., where an account holding a short call also holds a long call, or where an account holding a short put also holds a long put (provided the long positions expire on or after the expiration of the short positions)), Amex Rule 462(d)(2)(G) requires margin for a call spread equal to the lesser of (1) 100% of the option premium plus 15% of the market value of the equivalent number of shares of the underlying security value if the Exchange-Traded Fund Share holds securities based upon a broad-based index or portfolio; or 20% of the market value of the equivalent number of shares of the underlying security value if the exchange-Traded Fund Share holds securities based upon a narrow-based index or portfolio, reduced by any excess of the exercise price over the current market price of the underlying security in the case of a call, or any excess of the current market price of the underlying security over the exercise price in the case of a put or (2) the amount, if any, by which the exercise price of the ''long'' call exceeds the exercise price of the ''short'' call. And in the case of a put spread, Amex Rule 462(d)(2)(G) requires margin equal to the lesser of (1) 100% of the option premium plus 15% of the market value of the equivalent number of shares of the underlying security value if the Exchange-Traded Fund Share holds securities based upon a broad-based index or portfolio; or 20% of the market value of the equivalent number of shares of the underlying security value if the Exchange-Traded Fund Share holds securities based upon a narrow-based index or portfolio, reduced by any excess of the exercise price over the current market price of the underlying security in the case of a call, or any excess of the current market price of the underlying security over the exercise price in the case of a put or (2) the amount, if any, by which the exercise price of the ''short'' put exceeds the exercise price of the ''long'' put. In these contexts, the Exchange proposed that the required margin under Amex Rule 462(d)(2)(G) be applicable for each short Grand Fund Share call (put) option contract offset by 10 long ordinary Fund Share call (put) option contracts.

In the case of a straddle (i.e., where an account holding both a put and a call for the same number of shares of the same equity security), guaranteed or carried ''short'' for a customer, the amount of margin required under Amex Rule 462(d)(2)(F) is the margin on the put or the call whichever is greater (under Amex Rule 462(d)(2)(D)), plus 100% of the premium on the other option. In this context, the Exchange proposes that the reduced margin under Amex Rule 462(d)(2)(D) be applicable for each Grand Fund Share call (put) option contract offset by 10 ordinary Fund Share put (call) option contracts. The Exchange believes the proposed margin offsets are appropriate given that the Grand contract is the economic equivalent of 10 ordinary Fund Share option contracts. In addition, the Exchange believes that by providing the same margin treatment for Grand Fund Share option contracts and 10 ordinary Fund Share option contracts, any potential investor confusion concerning the margin treatment of Grand contracts will be eliminated.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of

[3] The term Exchange-Traded Fund Share includes securities representing interests in opened unit investment trusts or open-end management investment companies that hold securities based on an index or portfolio of securities. Currently, the Exchange trades unit investment trust securities known as Portfolio Depositary Receipts SM (''PDRs'') based on the Standard & Poor's 500® Composite Stock Price Index, the Standard & Poor's MidCap 400 Index, and the Dow Jones Industrial Average. In addition, the Exchange trades Fund Shares which are issued by an open-end management investment company consisting of seventeen separate series known as World Equity Benchmark Shares SM (WEBs) based on seventeen foreign equity market indexes. PDRs and WEBS are listed on the Amex pursuant to Rule 1000, *et seq.* and Rule 1000A *seq.*, respectively, and trade like shares of common stock.

[4] Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998).

[5] Amex Rule 462 states: ''In the case of a put or call dealt in on a registered national securities exchange or a registered securities association and issued by The Options Clearing Corporation, and representing options on equity securities, 100% of the option premium plus 20% of the market value of the equivalent number of shares of the underlying security, reduced by any excess of the exercise price over the current market price of the underlying security in the case of a call, or any excess of the current market price of the underlying security over the exercise price in the case of a put, (except that in the case of such options on Exchange-Traded Fund Shares or other securities that represent an interest in a registered investment company that satisfies the criteria set forth in Rule 915; Commentary .06, margin must equal at least 100% of the current market value of the contract plus (1) 15% of the market value of equivalent units of the underlying security value if the Exchange-Traded Fund Share holds securities based upon a broad-based index or portfolio; or (2) 20% of the market value of equivalent units of the underlying security value if the Exchange-Traded Share holds securities based upon a narrow-based index or portfolio).'' Amex Rule 462(d)(2)(D)(ii); Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998). The current rule proposal clarifies that these are the margin requirements for ''Grand'' Exchange-Traded Fund Share option contracts. The Commission notes that, specifically, the provisions of Amex Rule 462(d)(2)(D)(ii) have applicability to an account holding a ''Straddle'' or a ''spread'' position, as discussed below. *See* Amex Rules 462(d)(2)(F) and (G).

Section 6(b)(5),[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Amex has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to within 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–AMEX–98–45 and should be submitted by January 14, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34127 Filed 12–23–98; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40795; File No. SR–AMEX–98–43]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Exercise Price Intervals and Exercise Prices for FLEX Equity Call Options

December 15, 1998.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 2, 1998, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to remove paragraph (c)(3) from Exchange Rule 903G which limits exercise price intervals and exercise prices for FLEX Equity call options to those that apply to Non-FLEX Equity call options.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 19, 1996, the Exchange received approval to list and trade flexible options on individual stocks known as FLEX Equity options.[3] Although the exercise prices and price intervals of FLEX Equity call options were among the terms that could be specified, the Exchange enacted paragraph (c)(3) of Exchange Rule 903G to limit the exercise price intervals and exercise prices for FLEX Equity call options to those that apply to Non-FLEX Equity call options due to a concern that the flexible exercise price feature could result in an available call option that would not be eligible to be a qualified covered call (''QCC'') under section 1092(c)(4) of the Internal Revenue Code (''IRC'') and thus would jeopardize a modest tax benefit enjoyed by writers of standardized Non-FLEX Equity call options.[4] The Exchange notes that currently, under section 1092(c)(4)(B) of the IRC, certain covered short positions in call options—or QCCs—qualify for advantageous tax treatment if the options are not ''deep in the money.'' Under certain conditions, a ''deep in the money'' call option is defined to mean an option having an exercise price lower than the highest available exercise price that is less than the applicable stock price.[5]

The Internal Revenue Service (''IRS'') has reviewed this issue and has proposed rulemaking that would not require that strike prices established by equity options with flexible terms be taken into account in determining

[1] 15 U.S.C. 78s(b)(1).

[2] Paragraph (c)(3) of Rule 903G was approved by the Commission in 1996. Securities Exchange Act Release No. 37726 (September 25, 1996), 61 FR 51474 (October 2, 1996).

[3] Securities Exchange Act Release No. 37336 (June 19, 1996), 61 FR 33558 (June 27, 1996).

[4] It was unclear, for example, whether the existence of a series of FLEX Equity call options with a strike price of 58, when the price of the underlying stock is 59, would jeopardize a Non-FLEX Equity call option's (with a strike price of 55) characterization as a QCC.

[5] For instance, using standardized options and a $5 price interval, if stock XYZ closed yesterday at $54 and opened at that price today, the standardized exercise price of $50 for a call option would not be ''deep in the money'' because $50 would be the highest available exercise price that is less than the applicable stock price. A standardized exercise price of $45 would be ''deep in the money'' and would not be a QCC.

whether standard term equity options are too ''deep in the money'' to receive QCC treatment.[6] The public comment period for the proposed rulemaking ended on September 23, 1998, and the Exchange expects the IRS to adopt final regulations on this topic some time after that date. In light of the rule proposal by the IRS, the Exchange now proposes to delete paragraph (c)(3) from Exchange Rule 903G. The Exchange intends for the deletion of paragraph (c)(3) to coincide with the effective date of final regulations by the IRS. The effect of the IRS proposed rulemaking and the Exchange's proposed withdrawal of the limitation on the exercise price of FLEX Equity call options would be that certain taxpayers, particularly institutional and other large investors, could engage in transactions in FLEX Equity call options with a wider range of exercise prices (as was originally intended) without affecting the applicability of Section 1092 of the IRC for QCC options involving equity options with standard terms.

2. Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of section 6(b)(5),[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system by eliminating a restriction on FLEX Equity call options that has hampered their usefulness as a risk managing mechanism.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[6] Department of the Treasury, Internal Revenue Service REG–104641–97, 63 FR 34616 (June 25, 1998).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, in Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–AMEX–98–43 and should be submitted by January 14, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34130 Filed 12–23–98; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40805; File No. SR–PCX–98–53]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Options Floor Trading Halts and Suspensions

December 17, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 6, 1998,[3] the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to amend its Rule 6.65 on Options Floor Trading Halts and Suspensions to include guidelines to assist Floor Officials in their decisions regarding trading halts in equity options. The text of the proposed rule change is set forth below. Proposed new language is in italics.

¶ 5079 Trading Halts and Suspensions

Rule 6.65(a)–(b)—No Change.

(c) Options Floor Trading Halt Guidelines. Trading halts are, by definition, unusual market conditions. Accordingly, all of the precise circumstances at the time a trading halt cannot be anticipated. An evaluation of all circumstances at the time a trading halt is under consideration is critical. Except as provided below, to ensure consistent application of the Exchange's trading halt guidelines, the concurrence of two Floor Officials and a senior Exchange Official is required. Bearing in mind the need to exercise discretion in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On December 4, 1998, the PCX submitted Amendment No. 1 to the proposed rule change. Amendment No. 1 clarifies certain defined terms in the rule language and makes additional non-substantive textual changes. *See* letter from Robert Pacileo, Jr., Staff Attorney, PCX, to Mignon McLemore, Attorney, Division of Market Regulation, Commission, dated December 3, 1998.

response to particular circumstances as they occur, the following are guidelines for trading halts at the Exchange under varying circumstances:

(1) No last sale and/or quotation dissemination either by the Exchange or by OPRA. At the outset, a time-critical review by two Floor Officials and a senior Exchange Official (the ''group'') will be made of the circumstances causing the failure of dissemination. If it is believed by the group that the dissemination will resume in less than 15 minutes, trading ordinarily will continue and a message will be given to the news wire services announcing the dissemination difficulty. If it is believed by this group that the dissemination problem will extend beyond 15 minutes, the two Floor Officials, in their discretion, may impose a halt on all trading in affected securities. In any event, two Floor Officials may permit trading to continue for more than 15 minutes after a failure of dissemination only with the concurrence of a senior Exchange Official. Trading may resume upon a determination by the group that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. Generally the Exchange will notify member firms and the news wire services of the resumption of trading.

(2) Primary market halts trading in one or more securities for regulatory reasons. Upon notification by the primary market of a regulatory trading halt of an individual equity security in the primary market, the Exchange may impose a trading halt in the individual stock option overlying the security so halted. Trading will resume upon a determination by two Floor Officials that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading.

(3) Primary market non-regulatory trading halt in one or more equity securities. Upon notification by the primary market of a non-regulatory trading halt of an individual equity security in the primary market, any two Floor Officials, in their discretion, may impose a trading halt in the individual stock option overlying the security so halted. Trading may resume upon a determination by two Floor Officials that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. Generally the Exchange will notify member firms and the news wire services of the resumption of trading.

(4) The primary market halts trading floor-wide. If the primary market halts trading floor-wide, the Exchange will halt trading in all individual equity options overlying the securities so halted in the primary market and will assess the viability of markets in the underlying securities, as measured by transactions and by share volume. In the event that it is determined by two Floor Officials, with the concurrence of a senior Exchange Official, that sufficient markets will support trading other than on the primary exchange, the Exchange will resume trading. Generally the Exchange will notify member firms and the news wire services of the resumption of trading.

(5) Primary market is open but is unable to disseminate last sale or quotation information. The Exchange's options trading ordinarily will remain open for trading unless, in the opinion of two Floor Officials, the absence of disseminated information will impede the ability of market makers to maintain fair and orderly markets in the option. The concurrence of a senior Exchange Official is required if more than one option class is affected.

(6) Over-the-counter quote dissemination halt. Two Floor Officials, in their discretion, may halt trading in options overlying over-the-counter securities affected by such a quote dissemination halt upon first notification of the dissemination halt. Trading may resume upon a determination by two Floor Officials that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. Generally the Exchange will notify member firms and the news wire services of the resumption of trading.

(7) Expiration Friday trading in individual equity options. In the event that any of the foregoing should occur on expiration Friday, it is the preference of the Exchange to allow trading to continue on that date. This will be a primary consideration in the assessments to be made by the Floor Officials and the Senior Exchange Official.

(8) Dissemination of news after the close of trading in the primary market. Any two Floor Officials may halt trading in any security in the event of disseminated news that causes the Floor Officials to believe that trading in options should be halted to allow market participants an opportunity to consider the effect of the news on pricing of trades. Two Floor Officials and a senior Exchange Official will then decide whether and, if so, when to recommence trading. This may occur after the primary market of the underlying security has closed for the day, in which event, the decision may be to not resume trading until the next trading day or to have a closing rotation after appropriate notification to the public.

Commentary:

.03 For purposes of this Rule, a ''regulatory halt'' is a halt that is initiated by a regulatory authority in the primary market and a ''non-regulatory halt'' is a halt initiated by floor staff or at the request of a Market Maker or Trading Crowd in the primary market. For example, regulatory halts may be initiated by Exchange Staff in the primary market if listing or maintenance requirements are not met; if there is a need for dissemination of news regarding market developments or material information; or at the request of the issuer. Examples of non-regulatory halts in the primary market would be requests by Floor Members due to an influx, or imbalance of orders, or by Floor Officials due to volatility in market conditions; or natural disasters.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item II below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed rule Change

1. Purpose

Background. Circuit Breakers are coordinated cross-market trading halts that are intended to help avoid a systematic breakdown when a severe one-day market drop of historic propositions prevents the financial markets from operating in an orderly manner. The objective of trading halts (*i.e.*,circuit breakers) is to stop trading when there is a severe market decline such that liquidity and credit dry up and prices threaten to free fall.[4] The Securities and futures markets introduced circuit breakers in order to offer investors an opportunity to assess

[4] *See* Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998).

information and positions when the markets experienced a severe, rapid decline.[5]

In 1988, the Commission approved various exchanges' circuit breaker proposals, along with the PCX's and the NASD's circuit breaker policy statements in response to the October 19, 1987 market drop. The Commission stated in its approval order that the circuit breaker proposals would provide market participants with an opportunity during a severe market decline to reestablish an equilibrium between buying and selling interests in a more orderly fashion.[6]

The current PCX Rule 6.65 provides for trading halts and suspensions for equity options whenever the Exchange deems such action appropriate in the interests of a fair and orderly market and to protect investors. The PCX also has a policy which sets forth guidelines for trading halts in equity options at the Exchange under varying circumstances. The proposed rule change would codify the Exchange's policy regarding guidelines for trading halts by describing several situations which may require trading halts. The situations are: (1) No last sale and/or quotation dissemination either by the Exchange or by the Options Price Reporting Authority (''OPRA''); (2) Primary market halts trading in one or more securities for regulatory reasons; (3) Primary market non-regulatory trading halt in one or more equity securities; (4) The Primary market halts trading floor-wide; (5) Primary market is open but is unable to disseminate last sale or quotation information; (6) Over-the-counter quote dissemination halt; (7) Expiration Friday trading in individual equity options; and (8) Dissemination of news after the close of trading in the primary market. The Commission approved a similar change to the Chicago Board Options Exchange (''CBOE'') rule and policy regarding trading halts in equity options.[7]

Proposal. The Exchange is proposing to amend Rule 6.65 on Options Floor Trading Halts and Suspensions to include non-mandatory guidelines to assist Floor Officials in their decisions regarding trading halts. Trading halts are, by definition, unusual market conditions. Accordingly, all of the precise circumstances of a trading halt cannot be anticipated. An evaluation of all the circumstances at the time a trading halt is under consideration is critical. Bearing in mind the need to exercise discretion in response to particular circumstances as they occur, the PCX proposes the following guidelines for trading halts at the Exchange.

First, when there is no last sale and/or quotation dissemination either by the Exchange or by the OPRA, the PCX proposes that, after review by two Floor Officials and a senior Exchange Official, if it is believed that the dissemination will resume in less than 15 minutes, trading ordinarily will continue and a message will be given to the news wire services announcing the dissemination difficulty. In addition, if it is believed by this group that the dissemination problem will extend beyond 15 minutes,the two Floor Officials, in their discretion, may impose a halt on all trading in affected securities. In any event, two Floor Officials may permit trading to continue for more than 15 minutes after a failure of dissemination only with the concurrence of a senior Exchange Officials. Trading may resume upon a determination by the group that the condition that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading.

Second, when the primary market halts trading in one or more securities for regulatory reasons, the Exchange proposes that trading in the individual stock option overlying a stock that has been halted for regulatory reasons generally will halt immediately upon the notification thereof by the primary market.[8]

Third, the Exchange proposes that, upon notification by the primary market of a non-regulatory trading halt of an individual equity security in the primary market, any two Floor Officials, in their discretion, may impose a trading halt in the individual stock option overlying the security so halted.

Fourth, when the primary market halts trading floor-wide, the Exchange proposes that trading will halt in all individual equity options overlying the securities so halted in the primary market and will assess the viability of markets in the underlying securities, as measured by transactions and by share volume. In the event that it is determined by two Floor Officials, with the concurrence of a senior Exchange Official, that sufficient markets will support trading other than on the primary exchange, the Exchange will resume trading.

Fifth, the Exchange proposes that when the primary market is open but is unable to disseminate last sale or quotation information, options trading ordinarily will remain open for trading unless, in the option of two Floor Officials, the absence of disseminated information will impede the ability of market makers to maintain fair and orderly markets in the option. The concurrence of a senior Exchange Official is required if more than one option class is affected.

Sixth, the Exchange further proposes that, in the event of an over-the-counter quote dissemination halt, two Floor Officials, in their discretion, may halt trading in options overlying over-the-counter securities affected by such a quote dissemination halt upon first notification of the dissemination halt.

Seventh, the Exchange proposes that, in the event that any of the foregoing should occur on expiration Friday, it is the preference of the Exchange to allow trading to continue on that date. This will be a primary consideration in the assessment to be made by the Floor Officials and the senior Exchange Official.

Eighth, the Exchange proposes that any two Floor Officials may halt trading in any security in the event of disseminated news after the close of trading in the primary market that causes the Floor Officials to believe that trading in options should be halted to allow market participants an opportunity to consider the effect of the news on pricing of trades. Two Floor Officials and a senior Exchange Official will than decide whether and, if so, when to recommence trading. This may occur after the primary market of the underlying security has closed for the day, in which event, the decision may be to not resume trading until the next trading day or to have a closing rotation after appropriate notification to the public.

Finally, when regard to any of the aforementioned circumstances, the

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[5] *Id.*

[6] *Id.*

[7] *See* CBOE Regulatory Circular RG92–40, dated July 8, 1992, or CBOE Regulatory Circular RG93–58, dated November 10, 1993, (CBOE Circular 92–40 reissued); Exchange Act Rel. No. 25906 (July 13, 1988), 53 FR 27249 (July 919, 1988) (order approving CBOE's trading halt policy for individual equity options). *See also* CBOE Regulatory Circular RF95–51, dated June 14, 1995; Exchange Act Rel. No. 35789 (May 31, 1995), 60 FR 30127 (June 7, 1995) (order approving amendment to CBOE's trading halt policy for individual equity options to reflect amendments to CBOE Rule 6.3).

[8] As stated in proposed commentary .03, a ''regulatory halt'' is a halt that is initiated by a regulatory authority in the primary market and a ''non-regulatory halt'' is a halt initiated by floor staff or at the request of a Market Maker or Trading Crowd in the primary market. For example, regulatory halts may be initiated by Exchange Staff in the primary market if listing or maintenance requirements are not met; if there is a need for dissemination of news regarding market developments or material information; or at the request of the issuer. Examples of non-regulatory halts in the primary market would be requests by Floor Members due to an influx, or imbalance of orders, or by Floor Officials due to volatility in market conditions; or natural disasters.

Exchange proposes that trading may resume upon a determination by two Floor Officials that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. Generally the Exchange will notify member firms and the news wire services of the resumption of trading.

2. Statutory Basis

The PCX believes the proposed rule change is consistent with Section 6(b)[9] of the Act, in general, and furthers the objectives of Section 6(b)(5),[10] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities and, in general to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX believes that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The PCX neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–98–53 and should be submitted by January 14, 1999.

IV. Commission's Finding and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds, for the reasons set forth below, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b)[11] of the Act. Specifically, the Commission believes the proposals is consistent with the Section 6(b)(5)[12] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system and, in general, to protect investors and the public.[13]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that approval of the proposal should enhance market efficiency by providing additional clarity to the Exchange's existing trading halt policy for options on individual equity securities. Furthermore, outlining conditions which require an option trading halt should help lessen confusion for market participants, thereby facilitating the maintenance of a fair and orderly market. The Commission notes that the proposed rule change should be particularly helpful during times of high volatility in the market. The Commission also notes that this proposal is similar to a proposal filed by CBOE on October 5, 1987. After the notice and comment period, the Commission approved CBOE's proposal.[14]

Given the Commission's prior approval of a similar proposal and the immediate need to provide uniform guidelines for Exchange Floor Officials in handling trading halts and suspensions, the Commission deems it appropriate to approve the proposed rule change on an accelerated basis. The Commission believes it is consistent with Section 6(b)(5)[15] and Section 19(b)(2)[16] of the Act to grant accelerated approval to the proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–PCX–98–53) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34126 Filed 12–23–98; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. The Commission believes that this rule will improve market efficiency by providing uniform guidelines for Exchange Floor Officials in the event that the circumstances outlined in the proposed rule occur. The Commission further believes that the rule will have little, if any, adverse impact on competition. 15 U.S.C. 78c(f).

[14] *See* supra, note 7.

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40806; File No. SR–PCX–98–58]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. to Terminate its Specialist Post Fee Waiver Program

December 18, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 23, 1998, as amended on December 15, 1998,[3] the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to terminate its Specialist Post Fee Waiver Program.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Robert Pacileo, Staff Attorney, Regulatory Policy, PCX, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated December 14, 1998 (''Amendment No. 1''). Amendment No. 1 changed the PCX's justification for the proposed rule change's immediate effectiveness, and clarified the date PCX approved the proposal internally.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

In March 1998, the Commission approved a proposal by the Exchange to adopt a Specialist Post Fee Waiver Program (the ''Program'') to provide short-term cost relief to new specialist firms that agreed to operate a specialist post, and to existing specialist firms that agreed to operate an additional specialist post on the Equity Floors of the Exchange.[4] Under the Program, if a specialist firm is approved to assume financial and operational responsibility for a specialist post, the specialist firm's fixed specialist fees are waived for three months.[5] The program also allows participating specialist firms to earn fee credits, based on monthly trading volume, once the original three months have passed and the firm's fixed specialist fees have been reinstated.

In October 1998, the Commission approved a proposal by the Exchange to modify the Specialist Post Fee Waiver Program to assure that firms will not take on a new post for less than six months and then abandon it after having received the Program benefits.[6]

The Exchange believes the Specialist Post Fee Waiver Program has fulfilled its purpose and, accordingly, the Exchange is now proposing that it be terminated. The program was intended to provide short-term relief to new backers in a period of major industry change.[7] A decrease in seat prices and stronger demand for recently available posts indicates there is less of a need for the Exchange to provide a financial incentive to back posts. In addition, the PCX has recently implemented guidelines for approving requests to consolidate specialist posts. Firms that consolidate specialist posts are able to reduce seat-related costs.[8]

(2) Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5),[10] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Exchange also believes that the proposal is consistent with Section 6(b)(4) of the Act[11] in that it is designed to provide for the equitable allocation of dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act,[12] and subparagraph (e)(2) of Rule 19b–4 thereunder,[13] in that it establishes or changes a due, fee or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.[14] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–98–58 and should be submitted by January 14, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34128 Filed 12–23–98; 8:45 am]

BILLING CODE 8010–01–M

[4] *See* Securities Exchange Act Release No. 39745 (March 12, 1998), 63 FR 13440 (March 19, 1998).

[5] The specialist fees that are waived under the program include: Exchange Member Dues, the Floor Privilege Fee, the Specialist Facility Fee, the Specialist Systems Fee, Workstation Fees, the Market Data Fee, the Card Access Fee, the Pacific Clearing Corporation (''PCC'') Post Cashiering Fee and the PCC Post Clearing Fee. Some of the fees waived will vary based on the number of staff the firm has on the Floor and the services the firm uses. Consequently, the actual dollar amount of waived fees will vary slightly by firm. Generally, waived fees will average $7,330 per month.

[6] *See* Securities Exchange Act Release No. 40590 (October 22, 1998), 63 FR 58082 (October 29, 1998).

[7] Those posts already approved under the Specialist Post Fee Waiver program will continue to participate in the waiver program until their six-month participation period has ended.

[8] *See* Securities Exchange Act Release No. 40449 (September 17, 1998), 63 FR 51110 (September 24, 1998).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(e)(2).

[14] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Testing Modifications to the Disability Determination Procedures; Federal Processing Center Testing

AGENCY: Social Security Administration.

ACTION: Notice of the continuation of testing involving modifications to the disability determination procedures.

SUMMARY: The Social Security Administration (SSA) is announcing the continuation of testing that it has been conducting under the current rules at 20 CFR 404.906, 404.943, 404.966, 416.1406, 416.1443, and 416.1466. Those rules authorize the testing of

several modifications to the disability determination procedures that we normally follow in adjudicating claims for disability insurance benefits under title II of the Social Security Act (the Act) and claims for supplemental security income (SSI) payments based on disability under title XVI of the Act. This notice announces the continuation and duration of the testing in a federal processing center. This notice also announces that the selection of cases for this testing will be from a different state.

FOR FURTHER INFORMATION CONTACT: Harry Pippin, Disability Models Team Leader, Office of Disability, Disability Process Redesign Staff, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, 410–965–9203.

SUPPLEMENTARY INFORMATION: Current regulations at 20 CFR 404.906, 404.943, 404.966, 416.1406, 416.1443, and 416.1466 authorize us to test different modifications to the disability determination procedures. On August 1, 1997, we published in the **Federal Register** (62 FR 41457) a notice that described the use of four features of the testing modifications to the disability determination procedures, plus two features designed to maximize the resources of a federal processing center. That notice announced that testing of this model would take place at the Social Security Administration's Office of Disability and International Operations in Baltimore, Maryland. Testing was to begin on or about August 11, 1997, and selection of approximately 1,000 claims filed by telephone by residents of Kentucky was to continue for approximately one year with cases processed for an additional six months. We stated that we might choose to extend the duration of the test to obtain additional data, and that we would publish another notice in the **Federal Register** if we decided to extend the duration. We incorporated a fifth modification to the integrated model to the disability determination procedures on September 23, 1997 (62 FR 49598).

We are now announcing that testing in the Office of Disability and International Operations (now called the Office of Central Operations), at 1500 Woodlawn Drive, Baltimore, MD 21241, will be extended for a period of up to one additional year to obtain further data. This test will combine the five process modifications plus the two features designed to maximize the resources of a federal processing center. While selection of Kentucky cases has stopped, the Office of Central Operations continues to adjudicate cases that have been selected already. The Office of Central Operations now will select approximately 400 claims filed by residents of Nevada. Adjudication of the Nevada cases will begin on or about December, 1998. We will continue to select the Nevada cases for at least four months, and may continue to have cases processed for an additional six months after case selection ends. We will publish another notice in the **Federal Register** if we extend the duration of the test or if we select cases from a different state.

Dated: December 15, 1998.

Susan M. Daniels,

Deputy Commissioner for Disability and Income Security Programs.

[FR Doc. 98–34138 Filed 12–23–98; 8:45 am]

BILLING CODE 4190–29–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Pub. L. 104–13; Proposed Collection, Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402–2801; (423) 751–2523.

Comments should be sent to the Agency Clearance Officer no later than February 22, 1999.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Section 26a Permit Application.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households, state or local governments, farms, businesses, or other for-profit Federal agencies or employees, non-profit institutions, small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 2600.

Estimated Total Annual Burden Hours: 3900.

Estimated Average Burden Hours Per Response: 1.5.

Need For and Use of Information: Section 26a of the Tennessee Valley Authority Act of 1933, as amended, requires that TVA review and approve plans for the construction, operation, and maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries. The information collected is used to assess the impact of the proposed project on the statutory TVA programs and determine if the project can be approved. Rules on the application for review and approval of such plans are published in 18 CFR part 1304.

William S. Moore,

Senior Manager, Administrative Services.

[FR Doc. 98–34116 Filed 12–23–98; 8:45 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–132]

WTO Dispute Settlement Proceeding Regarding Mexico's Imposition of Antidumping Duties on Imports of High Fructose Corn Syrup From the United States

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that, at the request of the United States, a dispute settlement panel has been established under the Agreement Establishing the World Trade Organization (WTO), to examine Mexico's imposition of antidumping duties on imports of high fructose corn syrup (HFCS) from the United States, and related measures. More specifically, in this dispute the United States alleges that the measures in question are inconsistent with Article VI of the General Agreement on Tariffs and Trade 1994 (GATT 1994) and Articles 1, 2, 3, 4, 5, 6, 7, 10 and 12 of the WTO Antidumping Agreement. USTR also invites written comments from the public concerning the issues raised in the dispute.

DATE: Although USTR will accept any comments received during the course of

the dispute settlement proceedings, comments should be submitted on or before January 22, 1999, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESS: Comments must be submitted to Sandy McKinzy, Litigation Assistant, Office of Monitoring and Enforcement, Room 122, Attn: Mexico-HFCS Dispute, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Mélida Hodgson, Assistant General Counsel, (202) 395–3582.

SUPPLEMENTARY INFORMATION: On October 8, 1998, the United States requested the establishment of a WTO dispute settlement panel to examine whether Mexico's final antidumping measure, including actions preceding this measure, is inconsistent with the GATT 1994 and the Antidumping Agreement. On November 25, 1998, the WTO Dispute Settlement Body (DSB) established a panel to examine the U.S. complaint. Under normal circumstances, the panel, which will hold its meetings in Geneva, Switzerland, would be expected to issue a report detailing its findings and recommendations within six months after it is established.

Major Issues Raised by the United States and Legal Basis of Complaint

In February 1997, at the request of the Mexican Chamber of Sugar and Alcohol Industries (the sugar producers), the Mexican Secretariat of Commerce and Industrial Development (SECOFI) initiated an antidumping investigation of imports of HFCS from the United States. In January 1998, subsequent to the imposition of provisional antidumping duties, SECOFI made a final determination that imports of HFCS from the United States were being dumped in Mexico, and that these imports were threatening the Mexican sugar industry, and it therefore levied antidumping duties against U.S. exporters.

The USTR believes that these measures are inconsistent with key provisions of the WTO agreements in several respects, including the following:

—SECOFI's notice of initiation of an antidumping investigation did not provide adequate information summarizing the factors on which the allegation of threat of material injury was based;
—The evidence in the application alleging threat of material injury was insufficient to justify initiation of an investigation;
—In its final determination of threat of material injury to the sugar industry, Mexico failed to properly examine, and determine, the likely impact of dumped HFCS imports on the Mexican sugar industry;
—Mexico's determination that there was a likelihood of substantially increased imports or that further dumped imports were imminent was flawed;
—Mexico's application and administration of provisional antidumping measures was inconsistent with the Antidumping Agreement; and
—U.S. exporters were denied a full opportunity to defend their intersts during the pendency of Mexico's investigation

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate that information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding; the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the dispute settlement panel and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS–132) (''Mexico-HFCS Dispute'') may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

[FR Doc. 98–34134 Filed 12–23–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 USC Chapter 35). Section 3507 of Title 44 of the United States Code, requires that agencies prepare a notice for publication in the **Federal Register**, listing information collection request submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

The **Federal Register** Notice with a 60-day comment period soliciting comments on information collection 2132–0502 was published on August 25, 1998 [63 FR 45281].

DATES: Comments on this notice must be received on or before January 25, 1999.

FOR FURTHER INFORMATION CONTACT: A copy of the DOT information collection request submitted to OMB may be obtained from Ms. Sue Masselink, Office

of Program Management, (202) 366–1630, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Federal Transit Administration (FTA)

Title: 49 U.S.C. Section 5309 Capital Program and Section 5307 Urbanized Area Formula Program.

OMB Control Number: 2132–0543.

Form(s): N/A.

Type of Request: Extension of a currently approved collection.

Affected Public: State and local government and non-profit institutions.

Abstract: 49 U.S.C. section 5309 Capital Program and Section 5307 Urbanized Area Formula Program authorize the Secretary of Transportation to make grants to State and local governments and public transportation authorities for financing mass transportation projects. Grant recipients are required to make information available to the public and to publish a program of projects for affected citizens to comment on the proposed program and performance of the grant recipients at public hearings. Notices of hearings must include a brief description of the proposed project and be published in a newspaper circulated in the affected area. FTA also uses the information to determine eligibility for funding and to monitor the grantees' progress in implementing and completing project activities. The information submitted ensures FTA's compliance with applicable federal laws and OMB Circular A–102.

Estimated Burden: The estimated total annual burden is 517,600 hours.

Addresses: Written comments on the DOT information collection request should be forwarded, within 30 days of publication, to Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, Washington, DC 20503, ATTN: FTA Desk Officer. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

Comments are invited on: whether the proposed collections of information are 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 collections; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on December 17, 1998.

Phillip A. Leach, Clearance Officer,

United States Department of Transportation.

[FR Doc. 98–34061 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

AGENCY: Office of the Secretary, DOT

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 USC Chapter 35). Section 3507 of Title 44 of the United States Code, requires that agencies prepare a notice for publication in the **Federal Register**, listing information collection request submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

The **Federal Register** Notice with a 60-day comment period soliciting comments on the information collection described below was published on October 27, 1998 [63 FR 57350].

DATES: Comments on this notice must be received on or before January 25, 1999.

FOR FURTHER INFORMATION CONTACT: For copies of these documents, contact Barbara Davis, Office of Information Management, 202–267–2326.

SUPPLEMENTARY INFORMATION:

U.S. Coast Guard

Title: U.S. Coast Guard International Ice Patrol (IIP) Customer Satisfaction Survey.

OMB Control Number: 2115–0636.

Type of Request: Extension of a currently approved collection.

Forms: N/A.

Affected Public: Owners and operators of ships that pass through the Grand Bank region of the Northwest Atlantic Ocean.

Abstract: The information collection is a customer satisfaction survey which the Coast Guard will be conducting to determine the kind and quality of services its customers want and expect, as well as their satisfaction with the Coast Guard's existing services. The survey will be published in the AMVER Bulletin and is strictly voluntary.

Need: Executive Order 12862 directs Federal Agencies to conduct surveys to determine the kind and quality of services customers want and expect. The Coast Guard will use this information to measure customer satisfaction with current services and service standards. This will allow the Coast Guard to improve service delivery and determine whether additional services are requested by its customers.

Burden Estimate: The estimated burden is 150 hours annually.

Addresses: Written comments on the DOT information collection request should be forwarded, within 30 days of publication, to Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, Washington, DC 20503, ATTN: USCG Desk Officer. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

Comments are invited on: whether the proposed collections of information are 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 collections; 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 December 18, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–34144 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–98–27]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in this summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before January 13, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 90–NPRM–CMTS@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Brenda Eichelberger (202) 267–7470 or Terry Stubblefield (202) 267–7624, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC on December 17, 1998.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

To permit Columbia Helicopters, Inc. to conduct external-load operations in the United States using Canadian-registered rotorcraft.

Grant, December 16, 1998, Exemption No. 6045B.

Docket No.: 27984.

Petitioner: Epps Air Service, Inc.

Sections of the FAR Affected: 14 CFR 135.143(c)(2).

Description of Relief Sought/ Disposition: To permit Epps to operate without a TSO–C112 transponder installed on its aircraft operating under the provisions of part 135.

Grant, December 16, 1998, Exemption No. 6037B.

Docket No.: 29391.

Petitioner: Mr. Norman D. Wilson.

Sections of the FAR Affected: 14 CFR 121.383(c).

Description of Relief Sought/ Disposition: To permit Mr. Norman D. Wilson to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.

Denial, December 16, 1998, Exemption No. 6847.

[FR Doc. 98–34055 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development (R, E&D) Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development Advisory Committee. The meeting will be held on January 20–21, 1999, at the Holiday Inn Rosslyn Westpark Hotel, 1900 North Fort Meyer Drive, Arlington, Virginia.

On Wednesday, January 20 the meeting will begin at 9 a.m. and end at 5 p.m. On Thursday, January 21 the meeting will begin at 8:30 a.m. and end at 12 noon.

The meeting agenda will include discussion on Committee restructuring, comments on the R, E&D budget, briefing on Safer Skies and a briefing on the new Architecture Database. The Committee will also receive updates on safe Flight 21, and the Free Flight Phase I program.

Attendance is open to the interested public but limited to space available. Persons wishing to attend the meeting or obtain information should contact Lee Olson as the Federal Aviation Administration, AAR–200, 800 Independence Avenue, SW, Washington, DC 20591 (202) 267–7358.

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on December 11, 1998.

Herman A. Rediess,

Director, Office of Aviation Research.

[FR Doc. 98–34056 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Austin Straubel International Airport, Green Bay, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Austin Straubel International Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158.

DATES: Comments must be received on or before January 25, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Donald D. Hoeft for Brown County, Wisconsin at the following address: Austin Straubel International Airport, 2077 Airport Drive, Green Bay, WI 54313.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Brown County, Wisconsin under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel J. Millenacker, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Ave. So., Room 102, Minneapolis, MN 55450, (612) 713–

4350. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Austin Straubel International Airport under provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 7, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by Brown County, Wisconsin 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 March 13, 1999.

The following is a brief overview of the application.

PFC application number: 99–02–C–00–GRB.

Level of the PFC: $3.00.

Proposed charge effective date: April 1, 1999.

Proposed charge expiration date: July 1, 2002.

Total estimated PFC revenue: $2,768,496.00.

Brief description of proposed projects: 1. Purchase airport rescue and fire fighting vehicle; 2. Acquire snow plow, spreader, and blower; 3. Partial rehabilitation of airfield pavements and security fencing; 4. Expand air carrier apron; 5. PFC administration cost; and 6. Terminal entrance road reconstruction.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None. Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Austin Straubel International Airport, 2077 Airport Drive, Green Bay, WI.

Issued in Des Plaines, Illinois on December 17, 1998.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 98–34164 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Duluth International Airport and Use the Revenue at Duluth International Airport and Sky Harbor Airport, Duluth, MN

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 a PFC at Duluth International Airport and use the revenue from a PFC at Duluth International Airport and Sky Harbor Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 25, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450–2706.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Raymond Klosowski, Executive Director, Duluth Airport Authority, at the following address: Duluth Airport Authority, Duluth International Airport, Duluth, MN 55811.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Duluth Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon Nelson, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450–2706, (612) 713–4358. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Duluth International Airport and use the revenue from a PFC at Duluth International Airport and Sky Harbor Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On November 17, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Duluth Airport Authority 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 March 2, 1999.

The following is a brief overview of the application.

PFC application number: 99–03–C–00–DLH.

Level of the PFC: $3.00.

Proposed charge effective date: May 1, 1999.

Proposed charge expiration date: July 1, 2001.

Total estimated PFC revenue: $568,047.00.

Brief description of proposed projects:

PFC Projects at Duluth International: Acquire snow removal equipment, develop Airport Noise Overlay Zone (AOZ), energy improvements to terminal building HVAC system, PFC consultant fees.

PFC Project at Sky Harbor: Safety/security improvements. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: non-scheduled Part 135 Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Duluth Airport Authority Office.

Issued in Des Plaines, Illinois, on December 17, 1998.

Benito De Leon,

Manager, Airports Planning/Programming Branch, Great Lakes Region.

[FR Doc. 98–34165 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Monthly notice of PFC approvals and disapprovals. In November 1998, there were six applications approved. This notice also

includes information on one application, approved in October 1998, inadvertently left off the October 1998 notice. Additionally, seven approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Rhinelander and County of Oneida, Rhinelander, Wisconsin.

Application Number: 98–05–C–00–RHI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $20,500.

Earliest Charge Effective Date: January 1, 2001.

Estimated Charge Expiration Date: April 1, 2001.

Class of Air Carriers Not Required To Collect PFC's: Part 135 air taxis.

Determination: Approved. Based on information in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Rhinelander-Oneida County Airport.

Brief Description of Projects Approved for Collection and Use: Infrared aircraft deicing facility. PFC administration.

Decision Date: October 7, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy M. Nistler, Minneapolis Airports District Office, (612) 713–4361.

Public Agency: City of Manchester, New Hampshire.

Application Number: 98–08–C–00–MHT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $2,978,000.

Earliest Charge Effective Date: October 1, 2016.

Estimated Charge Expiration Date: April 1, 2017.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Manchester Airport.

Brief Description of Project Approved for Collection and Use: Relocate Kelly Road.

Decision Date: November 3, 1998.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: Hall County Airport Authority, Grand Island, Nebraska.

Application Number: 98–01–C–00–GRI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $50,370.

Earliest Charge Effective Date: February 1, 1999.

Estimated Charge Expiration Date: April 1, 2000.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Update airport master plan
Replace snowplow
Replace runway broom

Decision Date: November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 426–4730.

Public Agency: Monroe County, Rochester, New York.

Application Number: 98–02–C–00–ROC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $10,778,889.

Earliest Charge Effective Date: April 1, 2004.

Estimated Charge Expiration Date: August 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Taxiway E reconstruction and runway 4/22 connection
Aircraft rescue and firefighting (ARFF) station
Aircraft safety and security enhancements
Regional ARFF facility

Brief Description of Project Disapproved: ARFF equipment.

Determination: Disapproved. The FAA has determined that the proposed ARFF vehicle to be purchased in this project exceeds that required by part 139 and is ineligible in accordance with paragraph 562(b) of FAA Order 5100.38A, AIP (Airport Improvement Program) Handbook (October 24, 1989).

Decision Date: November 16, 1998.

FOR FURTHER INFORMATION CONTACT: Philip Brito, New York Airports District Office, (516) 227–3800.

Public Agency: Municipal Airport Authority, Fargo, North Dakota.

Application Number: 98–03–C–00–FAR.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,341,857.

Earliest Charge Effective Date: February 1, 2000.

Estimated Charge Expiration Date: September 1, 2002.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Hector International Airport.

Brief Description of Projects Approved for Collection and Use: Expand north general aviation apron.

Air cargo apron
Connecting taxiway
Access road
Apron lighting
Access road lighting
Taxiway lighting
Airfield signage
PFC development costs
Relocate airport beacon
Improve drainage at A4 and southeast general aviation apron
Rotary snowplow, 4000 to 5000 ton per hour capacity
Fixed blade truck with sander

Brief Description of projects Disapproved:

Fixed blade truck
Rehabilitate existing airport terminal access road lighting
Passenger boarding bridge

Determination: The FAA has determined that the public agency did not consult on alternative projects to this impose only project with the air carriers. The PFC statute requires that before submission of an application to impose a PFC under § 158.25(b), a public agency shall provide reasonable notice to, and an opportunity for consultation with, air carriers operating at the airport, (49 U.S.C. 40117(c)(2)). The consultation must provide air carriers with a description of projects and justifications for projects to be funded through the imposition of PFC's. See, Northwest Airlines, Inc. v. Federal Aviation Administration, 14 F. 3d 64 (D.C. Cir. 1994).

Decision Date: November 18, 1998.

FOR FURTHER INFORMATION CONTACT: Irene Porter, Bismarck Airports District Office, (701) 250–4385.

Public Agency: County of Gunnison, Gunnison, Colorado.

Application Number: 98–02–C–00–GUC.

Application Type: Impose and use a PFC.

PFC level: $3.00.

Total PFC Revenue Approved in This Decision: $619,631.

Earliest Charge Effective Date: December 1, 1999.

Estimated Charge Expiration Date: March 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Planning studies

Land acquisition terminal area (Treadway property)

Land acquisition terminal area (B&L property)

Land acquisition terminal area (Hertz property)

Land acquisition terminal area (Coleman property)

Land acquisition terminal area (Percery property)

Brief Description of Projects Withdrawn: Snow removal equipment building and terminal entrance road (phase I).

Determination: This project was withdrawn by the public agency in its letter dated September 16, 1998. Therefore, the FAA will not rule on this project in this decision.

Decision Date: November 24, 1998.

FOR FURTHER INFORMATION CONTACT: Christopher Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: State of Connecticut, Department of Transportation, Bureau of Aviation and Ports, Windsor Locks, Connecticut.

Application Number: 98–07–I–00–BDL.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $5,376,000.

Earliest Charge Effective Date: February 1, 1999.

Estimated Charge Expiration Date: November 1, 1999.

Class of Air Carriers Not Required To Collect PFC's: On-demand air taxi commercial operators.

Determination: Approved. Based on information in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Bradley International Airport.

Brief Description of Project Approved for Collection Only: Construction of airport snow equipment storage and maintenance building.

Decision Date: November 30, 1998.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Region Airports Division. (781) 238–7614.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
95–03–I–01–STT, St. Thomas, VI	10/05/98	$3,342,000	$4,342,000	12/01/98	12/01/99
96–05–U–01–STT, St. Thomas, VI	10/05/98	3,342,000	4,342,000	12/01/98	12/01/99
97–02–C–02–CRW, Charleston, WV	11/17/98	541,790	555,736	12/01/99	04/01/99
98–03–C–01–CRW, Charleston, WV	11/17/98	662,687	694,946	12/01/99	04/01/99
96–01–C–01–MDT, Harrisburg, PA	11/17/98	4,088,000	4,700,000	09/01/99	05/01/99
93–01–C–03–EUG, Eugene, OR	11/20/98	1,850,000	2,127,000	12/01/98	03/01/99
96–02–U–01–EUG, Eugene, OR	11/20/98	1,850,000	2,127,000	12/01/98	03/01/99

Issued in Washington, DC, on December 18, 1998.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 98–34163 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Jackson County, Oregon

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice of intent to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway improvement in the City of Medford, Jackson County, Oregon.

FOR FURTHER INFORMATION CONTACT: Ivan Marrero, Liaison Engineer Region 3, Federal Highway Administration, Equitable Center, 530 Center Street, NE., Suite 100, Salem, Oregon 97301, Telephone: (503) 399–5749, Ivan.Marrero@fhwa.dot.gov.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation (ODOT), will prepare an environmental impact statement (EIS) on a proposal to improve an 8.2 kilometer (5.1 mile) section of the Crater Lake Highway (State Highway 22/Oregon 62) in Medford, Oregon. This project is located between US Highway 99 in Medford and Oregon Highway 140 in White City (unincorported), Oregon. Improvements are considered necessary to provide for existing and projected traffic demand and a safe and efficient highway meeting modern design standards. Alternatives being studied include major capacity improvements on the existing alignment, a new highway on new alignment, and the no-build alternative. All alternatives include TSM and TDM and access management measures. In conjunction with the environmental impact study, a major investment study will be conducted as part of the EIS analysis.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed or are known to have interest in this proposal. Public meetings will be held during project development and a public hearing will be held. No formal scoping meeting is planned at this time although local informational meetings have been held and additional meetings will be held. The draft EIS will be available for public and agency review and comments prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be

directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: December 15, 1998.

Elton H. Chang,

Environmental Engineer Oregon Division.

[FR Doc. 98–34177 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safe Use of Prescription and Over-the-Counter Drugs

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of safety advisory.

SUMMARY: FRA issues Safety Advisory 98–3 to address recommended practices for the safe use of prescription and over-the-counter drugs by safety-sensitive railroad employees.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Assurance and Compliance, Operating Practices Division, Federal Railroad Administration, 1120 Vermont Avenue, NW, RRS–11, Mail Stop 25, Washington, DC 20590, (Telephone: (202) 493–6313) or Patricia V. Sun, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW, RCC–11, Mail Stop 10, Washington, DC 20590, (Telephone: (202) 493–6060).

SUPPLEMENTARY INFORMATION: FRA issues this advisory in support of DOT's efforts to ensure that transportation employees safely use prescription and over-the-counter (OTC) drugs. Safe rail operations depend upon alert and fully functional professionals who have not been adversely affected by drug use, whether medically appropriate (''legal'') or not. FRA has always prohibited illicit drug use and unauthorized use of controlled substances by safety-sensitive employees, but is equally concerned about the potentially adverse side effects from other prescription drugs and OTC products. Because DOT and FRA testing (including FRA's post-accident program) targets only alcohol and controlled substances, FRA does not have a clear picture of the extent to which the performance of safety-sensitive employees is adversely affected by legal drug use.

Accordingly, although not specifically addressed in its alcohol and drug testing regulations (49 CFR part 219), FRA strongly recommends that rail employers and safety-sensitive employees follow § 219.103 guidelines when considering the use of all prescription and OTC drugs. Simply stated, in the interest of safety, FRA strongly recommends that either a treating medical professional or a railroad-designated physician make a fitness-for-work determination concerning all prescription and OTC drug use prior to permitting an employee to return to work in safety sensitive service. This determination should also be made whenever an employee currently performing safety-sensitive functions is concerned about possible effects on his or her job performance from the use of prescription or OTC drugs.

Section 219.103(b) authorizes railroads to establish reporting and approval procedures for all prescription and OTC drugs which may have detrimental effects on safety. Additionally, FRA recommends that railroads educate their employees on these reporting and approval procedures and, most importantly, on how to use prescription and OTC medications safely.

FRA will take all appropriate action to continue reducing the negative impact from inappropriate use of all prescription and OTC medications. Moreover, FRA strongly encourages the rail industry to voluntarily develop programs on safe prescription and OTC drug use before such programs are mandated or directed through legislation.

Issued in Washington, D.C., on December 16, 1998.

George Gavalla,

Acting Associate Administrator for Safety.

[FR Doc. 98–34054 Filed 12–23–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration (RSPA), DOT

[Docket No. RSPA–98–4450; Notice 17]

Pipeline Safety: Intent To Approve Project and Environmental Assessment for the Chevron Pipe Line Company; Pipeline Risk Management Demonstration Program

AGENCY: Research and Special Programs Administration, Office of Pipeline Safety, DOT.

ACTION: Notice of Intent to Approve Project and Environmental Assessment.

SUMMARY: As part of its Congressional mandate to conduct a Risk Management Demonstration Program, the Office of Pipeline Safety (OPS) has been authorized to conduct demonstration projects with pipeline operators to determine how risk management might be used to complement and improve the existing Federal pipeline safety regulatory process. This is a notice that OPS intends to approve Chevron Pipe Line Company (Chevron) as a participant in the Pipeline Risk Management Demonstration Program. This also provides an environmental assessment of Chevron's demonstration project. Based on this environmental assessment, OPS has preliminarily concluded that this proposed project will not have significant environmental impacts.

This notice explains OPS's rationale for approving this project, and summarizes the demonstration project provisions that would go into effect once OPS issues an order approving Chevron as a Demonstration Program participant. OPS seeks public comment on the proposed demonstration project so it may consider and address these comments before approving the project. The Chevron demonstration project is one of several projects OPS plans to approve and monitor in assessing risk management as a component of the Federal pipeline safety regulatory program.

ADDRESSES: OPS requests that comments to this notice or about this environmental assessment be submitted on or before February 8, 1999, so they can be considered before project approval. However, comments on this or any other demonstration project will be accepted in the Docket throughout the 4-year demonstration period. Comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001, or you can E-Mail your comments to ops.comments@rspa.dot.gov. Comments should identify the docket number RSPA–98–4450. Persons should submit the original comment document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room 401, 400 Seventh Street, SW, Washington, DC. The Dockets Facility is open from 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Callsen, OPS, (202) 366–4572, regarding the subject matter of this notice and environmental assessment. Contact the Dockets Unit, (202) 366–9322, for docket material. Comments may also be reviewed on line at the DOT Docket Management System website at http://dms.dot.gov/.

SUPPLEMENTARY INFORMATION:

1. Background

The Office of Pipeline Safety (OPS) is the federal regulatory body overseeing pipeline safety. As a critical component of its mandate, OPS administers and enforces a broad range of regulations governing pipeline safety and environmental protection of pipelines. These regulations have contributed to a good pipeline industry safety record by ensuring that risks associated with pipeline design, construction, operations, and maintenance are understood, managed, and reduced.

Preserving and improving this safety record is OPS's top priority. On the basis of extensive research, and the experience of both government and industry, OPS believes that a risk management approach, properly implemented and monitored, offers opportunities to achieve:

(1) Superior safety, environmental protection, and service reliability;

(2) Increased efficiency and reliability of pipeline operations; and

(3) Improved communication and dialogue among industry, the government, and other stakeholders.

A key benefit of this approach is the opportunity for greater levels of public participation.

As authorized by Congress, OPS is conducting a structured Demonstration Program to evaluate the use of a comprehensive risk management approach in the operations and regulation of interstate pipeline facilities. This evaluation will be performed under strictly controlled conditions through a set of demonstration projects to be conducted with interstate pipeline operators. A Presidential Directive to the Secretary of Transportation (October 12, 1996) stated that in implementing the Pipeline Risk Management Demonstration Program: ''The Secretary shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply.'' Thus, the process to select operators for the Demonstration Program involves a comprehensive review to ensure that the proposed project will provide the superior safety and environmental protection required by this Directive. OPS may exempt a participating operator from particular regulations if the operator needs such flexibility in implementing a comprehensive risk management program; however, regulatory exemption is neither a goal nor requirement of the Demonstration Program.

This document summarizes the key points of this review for Chevron's demonstration project, and evaluates the safety and environmental impacts of this proposed project.

2. OPS Evaluation of Chevron Demonstration Project Proposal

Using the consultative process described in Appendix A of the Requests for Application for the Pipeline Risk Management Demonstration Program (62 FR 14719), published on March 27, 1997, OPS has reached agreement with Chevron on the provisions for a demonstration project on a 330-mile portion of Chevron's Salt Lake Products Pipeline System.

Company History and Record: The Salt Lake Products Pipeline System is, on average, 41 years old. It is composed of 706 miles of pipeline right-of-way that originates at Chevron's Salt Lake City refinery and distributes refined product (gasoline, diesel, jet fuel) throughout the States of Utah, Idaho, Oregon, and Washington. Construction of the first leg from Salt Lake City, Utah, to Twin Falls, Idaho, was completed in 1949. Expansion of the system in the 1950's and 1960's extended the system to Boise, Idaho; Pasco, Washington; and Spokane, Washington. Major lateral supply lines include lines to Pocatello, Idaho, and the Salt Lake City Airport. Chevron is proposing the 330-mile portion of the system from Salt Lake City, Utah to Boise, Idaho as its demonstration site. Chevron is headquartered in San Ramon, California, and has a Salt Lake Products support office in Salt Lake City, Utah.

Before entering into consultations with Chevron, OPS determined that Chevron was a favorable candidate for the Program after examining the company's safety and environmental compliance record, its accident history, and its commitment to working with OPS to develop a project meeting the Demonstration Program goals. The Salt Lake Products Pipeline System has experienced five reportable releases since 1990. Two of these releases were caused by damage from third parties excavating near the line; two events resulted from external corrosion; and the final release was due to a welding defect. The volume of product released from the line in each instance was relatively small—the largest being a release of approximately 365 barrels of jet fuel that occurred after an excavator pierced the line. The other four releases ranged from 88 barrels to 200 barrels. OPS was satisfied with the remedial actions undertaken in response to the two corrosion accidents. One involved localized corrosion due to a casing under a highway crossing. Chevron replaced the corroded pipe and eliminated the casing to prevent future reoccurrence. The other resulted from general external corrosion. After conducting an internal inspection of the pipeline, Chevron replaced all corroded pipe in the vicinity of the leak. None of the five releases resulted in injuries to pipeline personnel or members of the public, or caused a fire or explosion. The environmental impacts in each case were localized. The sites were cleaned to the satisfaction of regulatory agencies, and caused no permanent environmental damage.

The most recent significant accident on any Chevron pipeline occurred on the KLM Crude System on March 11, 1995. Four thousand barrels of crude oil were spilled into the Arroyo Pasajero near Kettleman City, California, when an upstream bridge collapsed during a 100-year flood and the resulting debris damaged the pipeline. No deaths or injuries resulted from the pipeline accident, although crop damage did occur. Following its accident investigation, the California State Fire Marshal (acting as an OPS state agent) cited Chevron for failure of the pipeline controller to take timely action. Chevron has replaced the segment of pipeline, burying it over 20 feet beneath the bottom of the channel where it can not be affected by future flooding. Chevron has also modified training procedures and retrained appropriate personnel in response to the State Fire Marshal's findings.

OPS believes that the actions Chevron has taken to address the specific causes of these accidents, together with Chevron's existing risk management program, are adequate responses to the incidents and demonstrate a continued commitment to safety. An important feature of Chevron's risk management program is the systematic approach Chevron employs to ensure that lessons-learned from any accident or unplanned event are considered in future risk assessments. Chevron begins its scenario based risk assessment of a pipeline system by considering a standard checklist of initiating events, which is constantly updated to reflect all known causes of accidents on any Chevron pipeline. In choosing risk control activities, Chevron carefully

considers consequences of past accidents on other similar pipeline systems.

Consultative Evaluation: During the consultations, a Project Review Team (PRT) consisting of representatives from OPS headquarters and Western Region, pipeline safety officials from Utah and Washington, and risk management experts met with Chevron to discuss Chevron's risk assessment, supporting analyses, proposed risk control activities, performance measures, and means of administering risk management within the company. The discussions addressed technical validation of all proposed activities, demographics and terrain along the demonstration segment, communications with outside stakeholders, and monitoring and auditing of results once the demonstration project is underway. These reviews were undertaken to ensure that the proposed Chevron demonstration project satisfies the three primary review criteria for the OPS Risk Management Demonstration Program:

1. Whether Chevron's proposed risk management program is consistent with the Risk Management Program Standard and compatible with the Guiding Principles set forth in that Standard;

2. Whether the proposed set of risk control alternatives is expected to produce superior safety, environmental protection, and reliability of service compared to that achieved from compliance with the current regulations;

3. Whether Chevron's proposed risk management demonstration program includes a company work plan and a performance monitoring plan that will provide adequate assurance that the expectation for superior safety, environmental protection, and service reliability is actually being achieved during implementation.

The demonstration project provisions described in this notice evolved from these consultations, as well as from any public comments received to date. An Environmental Assessment was completed as part of the Consultation process and is included as an Appendix to this Notice. Once OPS and Chevron consider and address comments received on this notice, OPS may issue an Order approving the Chevron demonstration project.

3. Statement of Project Goals

The Salt Lake Products Pipeline System transports gasoline, diesel, and jet fuel, which are stable, flammable liquids. If released in sufficient quantities and under certain conditions, spills may result in property and environmental damage, injuries, and fatalities. Therefore, ensuring that pipeline leaks and ruptures do not occur is the highest priority for OPS, state agencies, and Chevron. Through risk management, Chevron intends to continuously improve the level of safety associated with operating this line.

OPS and Chevron believe Chevron's demonstration project will improve safety by applying numerous risk control measures that exceed regulatory requirements on the pipeline segment. Chevron has completed two risk assessments on the entire Salt Lake Products Pipeline System: the first in 1995 and the second in April 1997. Based on the results of these risk assessments, Chevron has developed a set of risk control activities that address the areas of highest risk and are intended to result in reduced risk and superior safety and reliability on the pipeline system.

For the Salt Lake Products Pipeline System, Chevron will supplement the required regulatory activities it now performs with numerous new and additional risk control activities resulting from the comprehensive risk assessments. Some of the more significant activities that will be added to existing measures to improve safety along the demonstration segment are a comprehensive in-line inspection program to address external corrosion, activities to minimize the potential impact of drain valve leaks at several locations, a geologic hazard assessment to identify areas vulnerable to seismic activity, scouring, and land movement, enhanced risk communication with Local Emergency Planning Committees, and improved approaches to identify and address risks in Unusually Sensitive Areas (USAs). (The USA definition will appear in American Petroleum Institute (API) guidance to be published during the first quarter of 1999. Examples of USA candidates would be public water systems and threatened and endangered species).

Chevron is not requesting any exemptions from current regulations as part of its demonstration project. The set of risk control activities that Chevron identified from the risk assessments of the Salt Lake Products Pipeline System are intended to provide additional safety assurance. Chevron makes a strong case that the risk of a release on this system will be reduced, and superior safety and environmental protection will result.

4. Demonstration Project Pipeline Segment

Salt Lake Products Pipeline System. The Salt Lake Products Pipeline System passes through Utah, Idaho, Oregon, and Washington. Construction of the first leg from Salt Lake City, Utah, to Twin Falls, Idaho, was completed in 1949. Expansion of the system in the 1950's and 1960's extended the system to Boise, Idaho; Pasco, Washington; and Spokane, Washington. Major lateral supply pipelines include lines to Pocatello, Idaho, and the Salt Lake City Airport. The portion of the system proposed for the Demonstration Program consists of two parallel 8-inch diameter pipelines from Salt Lake City to Boise—one line transporting all grades of gasoline, and the other line transporting petroleum distillates such as diesel and jet fuel. The remainder of the system from Boise to Spokane consists of only one pipeline. With upgrades planned for completion by early 1999, the Salt Lake Products Pipeline System will transport a total of 70,000 barrels per day. The pipeline route crosses a variety of terrains, including desert, farmland, mountains, wetlands, and several river crossings. The majority of the route is through sparsely populated areas, with the exception of Salt Lake City and Boise where the population growth has resulted in a moderate density of residences and businesses near the right-of-way (with some individual residences and businesses adjacent to the right-of-way).

5. Project Description

The following risk control and monitoring activities would be included in the Order OPS issues formally approving the Chevron demonstration project.

Risk Control Activities on the Salt Lake Products Pipeline System

Chevron intends to demonstrate it operates more safely with a risk management program in place, providing a level of safety and environmental protection that exceeds protection afforded by pipeline safety requirements. The set of risk control activities that Chevron has identified from the risk assessments of the Salt Lake Products Pipeline System are intended to provide additional protection. Chevron is not requesting any exemptions from current regulations for its demonstration project.

The risk control activities that Chevron identified from its 1995 and 1997 risk assessments on the Salt Lake Products Pipeline System will be the focus of the demonstration project. The most significant risk control activities are the following:

• *External corrosion.* The Chevron corrosion maintenance and prevention program meets or exceeds all regulatory requirements and is consistent with good industry practices. As with all pipelines that have been operating for several years, there are some locations where the company is concerned about pipe coating condition and ensuring the adequacy of cathodic protection. To obtain better information about the current pipe condition, especially areas where corrosion might be occurring, the company intends to enhance its comprehensive internal inspection program by linking inspection results with identified sensitive environmental areas (discussed below). Chevron will run an inspection device through the pipe that will identify pipe geometric defects such as dents, gouges, and areas that are not perfectly round. Then a second ''intelligent'' pipe inspection tool will be used to identify locations where there has been metal loss due to corrosion. The output from these inspection tools will be used to identify pipe locations where corrosion or other problems might exist. The company will then excavate, examine, and, if appropriate, repair any damage that is discovered at these sites.

• *Geologic hazards in the form of seismic, scouring, and land movement.* Chevron identified these hazards in the 1995 risk assessment and remediated several key locations. However, the company still believes these risks need to be better defined and addressed. Chevron is proposing to conduct a geologic hazard assessment that identifies and obtains more data on the areas most vulnerable to geologic hazards. Chevron will use this information in its risk control and decision making process to identify risk control activities to address significant geologic threats.

• *Mapping Sensitive Environmental Areas.* Another feature of the Chevron risk management demonstration project is to develop improved approaches to identify and address risks in USAs. This effort will include mapping sensitive environmental areas adjacent to the line using the Global Positioning System and Geographic Information System. This information will support a more thorough investigation of environmental risks on the pipeline system as well as improving the allocation of resources to focus on potential problems in environmentally sensitive areas.

Finally, as part of the demonstration project, Chevron will reassess the risks of the demonstration site every two years to update its understanding of risks. Chevron will consult with OPS and state agencies about how best to address the results of these risk assessments.

Monitoring Demonstration Project Effectiveness

Chevron's Demonstration Project includes performance monitoring to assure the superior protection of public safety and achieve other project objectives. A key element of the performance monitoring plan is a set of performance measures that would track the risk reduction on the Salt Lake Products Pipeline System over time, track the growth and institutionalization of risk management within the company, measure the effectiveness of Chevron's risk control activities, and provide a basis for future improvement. Examples include:

• Risk reduction on the demonstration site over time. Chevron will analyze the results from the 1995, 1997, as well as future risk assessments to be conducted in 1999 and 2001, to see if risk is being reduced on the pipeline over time.

• Risk management program evolution from inception five years ago until present day and through the demonstration project. Chevron will document what has been done over time to make the program and processes more effective, and how the risk tools have evolved over time. For example, initially the scope of the Chevron program was assessing risk of pipeline systems, but the program has evolved to include evaluating all Chevron capital-funded pipeline projects as well as Chevron expense-funded pipeline projects. Risk management is even being employed in evaluating potential management system changes, such as automation and manpower requirements.

Chevron will report performance measure data and project progress regularly to OPS throughout the four year demonstration period. This information, as well as periodic OPS audits, will assure accountability for improved performance.

Section B of the Environmental Assessment provides more detail on Chevron's proposed project.

6. Regulatory Perspective

Why OPS Plans to Approve This Project?

OPS is considering Chevron's proposed project for the Demonstration Program because, after extensive review, OPS is satisfied that the proposal:

A. *Provides superior protection for the demonstration segment.* Chevron's risk control activities for the Salt Lake Products Pipeline System exceed current regulatory requirements to provide additional safety and environmental protection.

B. *Offers a good opportunity to evaluate risk management as a component of the Federal pipeline safety regulatory program.* OPS believes the Demonstration Program could benefit from Chevron's participation, given some of the distinguishing features of its proposed demonstration project, including:

• Chevron has a strong corporate commitment to risk management, and has already established an integrated and comprehensive risk management program. This project will provide insights into how a company effectively integrates a risk management program into its on-going business practices.

• Chevron has already completed two risk assessments of the entire proposed demonstration project system, and has already developed a set of projects to address the areas of highest risk. Chevron believes it can demonstrate superior performance by showing that the risk management program is an effective addition to the current regulations.

• Chevron's proposed project includes using risk assessment to develop improved approaches to identify and address risks in sensitive environmental areas (e.g., public water systems, sole source acquifers, and habitats of critically imperiled, and threatened and endangered species). This project may provide useful insights into OPS's current multi-agency efforts to define USAs.

• Chevron is not requesting any regulatory exemption. This project will demonstrate how a company can use risk management to achieve superior performance and continued improvement without avoiding required activities.

• This project will demonstrate how a quantitative, scenario-based approach to risk assessment can be effective in identifying and addressing pipeline risks.

• Chevron is one of the few companies that has truly integrated risk consideration into the annual capital budget process. The process and its evolution should provide OPS useful insights into a truly integrated and effective risk management program.

How Will OPS Oversee This Project?

After Chevron's risk management demonstration project is approved, the PRT consisting of OPS headquarters and regional staff and state pipeline safety officials who have been reviewing the proposal, will monitor the project. The PRT is designed to be a more

comprehensive oversight process that draws maximum technical experience and perspective from all affected OPS regional and headquarters offices, and from any affected state agencies that would not normally provide oversight on interstate transmission projects.

The PRT will conduct periodic risk management audits to observe company performance of the specific terms and conditions of the OPS Order authorizing this demonstration project. OPS is developing a detailed audit plan, tailored to the unique requirements of the Chevron Demonstration Project. This plan will describe the audit process (e.g., types of inspections, methods, and their frequency), as well as specific requirements for reporting information and performance measure data to OPS.

OPS retains its full authority to administer and enforce all regulations governing pipeline safety. Chevron is not requesting any regulatory exemptions. The Salt Lake Products Pipeline System will be subject to routine OPS inspection to ensure compliance with the applicable Federal Pipeline Safety Regulations.

Information Provided to the Public

OPS has previously provided information to the public about the Chevron project, and has requested public comment, using many different sources.

1. OPS aired several electronic ''town meetings'' enabling viewers of the two-way live broadcasts to pose questions and voice concerns about candidate companies (including Chevron).

2. An earlier **Federal Register** notice (62 FR 53052; October 10, 1997) informed the public that Chevron was interested in participating in the Demonstration Program, provided general information about technical issues and risk control activities to be explored, and identified the geographic areas the demonstration project would traverse.

3. Since August 1997, OPS has used an Internet-accessible data system called the Pipeline Risk Management Information System (PRIMIS), available via the OPS Home Page at http://ops.dot.gov to collect, update, and exchange information about all demonstration candidates, including Chevron.

4. At a November 19, 1997, public meeting OPS hosted in Houston, TX, Chevron officials presented a summary of the proposed demonstration project and answered questions from meeting attendees. (Portions of this meeting were broadcast on December 4, 1997, and March 26, 1998).

5. OPS is providing a prospectus, which includes a map of the demonstration pipeline segment, to State officials and community representatives who may be interested in reviewing project information, providing input, or monitoring the progress of the project.

At this point, OPS has received no public comment on Chevron's proposal. This notice is OPS's final request for public comment before OPS intends to approve Chevron's participation in the Demonstration Program.

Issued in Washington, DC on December 18, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

Appendix: Environmental Assessment

A. Background and Purpose

A Presidential Directive to the Secretary of Transportation (October 12, 1996) stated that in implementing the Pipeline Risk Management Demonstration Program: ''The Secretary shall require each project to achieve superior levels of public safety and environmental protection when compared with regulatory requirements that otherwise would apply.'' Thus, the process to select operators for this Demonstration Program involves a comprehensive review to ensure that the proposed project will provide the superior safety and environmental protection required by this Directive. This document summarizes the key points of this review for Chevron Pipe Line Company's (Chevron's) demonstration project, and evaluates the safety and environmental impacts of this proposed project.

This document was prepared in accordance with section 102(2)(c) of the National Environmental Policy Act (42 U.S.C. 4332), the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), and Department of Transportation Order 5610.1c, Procedures for Considering Environmental Impacts.

B. Description of the Proposed Action

As a result of a comprehensive review of the risk management demonstration project Chevron has proposed, the Office of Pipeline Safety (OPS) proposes to approve this project for participation in the Demonstration Program.

The Chevron project would involve the following pipeline segment:

(1) The 330-mile portion of the Salt Lake Products Pipeline System from Salt Lake City, Utah to Boise, Idaho.

The OPS Project Review Team that conducted this review has concluded the Chevron project will:

(1) Provide superior safety and environmental protection for the pipeline segment proposed for the demonstration project; and

(2) Offer a good opportunity to evaluate risk management as a component of the Federal pipeline safety regulatory program.

The Project Review Team evaluated the project according to review protocols and criteria available on PRIMIS. This evaluation is documented in ''OPS Project Review Team Evaluation of Chevron Demonstration Project.'' As a candidate for the Pipeline Risk Management Demonstration Program, Chevron has conducted thorough and systematic risk assessments to identify hazards and risks associated with operating the demonstration segment. The process used for performing these risk assessments is described in ''OPS Project Review Team Evaluation of Chevron Demonstration Project''.

Chevron has a strong, fully institutionalized risk management program that it has developed and refined through five years of application on all of its pipeline systems. The foundation of the Chevron program is a very systematic risk assessment process. This investigative process involves a comprehensive examination of the entire pipeline looking for possible sources of risk, modeling potential accident scenarios represented by these threats, and quantifying the relative importance of the risks. The examination of potential consequences includes public and worker safety as well as health effects, impacts on the environment, and maintaining service to Chevron's customers. The Chevron risk management program incorporates a well documented Risk Management Program Manual which includes a comprehensive set of risk management implementing procedures. Chevron effectively involves experienced field personnel in the risk management process. This comprehensive approach to risk management typically discovers risks that might not have been addressed through compliance with existing regulations.

Chevron is not requesting exemptions from current regulations for its proposed demonstration project. The set of risk control activities that have been identified from the risk assessments of the Salt Lake Products Pipeline System (described below) go beyond current pipeline safety requirements to provide additional protection. Chevron intends to demonstrate it operates more safely with a risk management program in place, providing a level of safety and environmental protection that exceeds current regulations.

Chevron has completed two risk assessments on the Salt Lake Products Pipeline System: the first in 1995 and the second in April 1997. Based on the results of these risk assessments, Chevron has developed a set of risk control activities that address the areas of highest risk. The following are the most significant activities that will be applied to the 330-mile demonstration segment and will be the focus of the Chevron demonstration project:

- *External corrosion.* The Chevron corrosion maintenance and prevention program meets or exceeds all regulatory requirements and is consistent with good industry practices. As with all pipelines that have been operating for several years, there are some locations where the company is concerned about pipe coating condition and ensuring the adequacy of cathodic protection. To obtain better information about the current pipe condition, especially areas where corrosion might be occurring, the

company intends to enhance its comprehensive internal inspection program by linking inspection results with identified sensitive environmental areas (discussed below). Chevron will run an inspection device through the pipe that will identify pipe geometric defects such as dents, gouges, and areas that are not perfectly round. Then a second ''intelligent'' pipe inspection tool will be used to identify locations where there has been metal loss due to corrosion. The output from these inspection tools will be used to identify pipe locations where corrosion or other problems might exist. The company will then excavate, examine, and, if appropriate, repair any damage that is discovered at these sites.

- *Geologic hazards in the form of seismic, scouring, and land movement.* Chevron identified these hazards in the 1995 risk assessment and remediated several key locations. However, the company still believes these risks need to be better defined and addressed. Chevron is proposing to conduct a geologic hazard assessment that identifies and obtains more data on the areas most vulnerable to geologic hazards. Chevron will use this information in its risk control and decision making process to identify risk control activities to address significant geologic threats.
- *Mapping Sensitive Environmental Areas.* Another feature of the Chevron risk management demonstration project is to develop improved approaches to identify and address risks in Unusually Sensitive Areas (USAs). (The USA definition will appear in American Petroleum Institute (API) guidance to be published during the first quarter of 1999. Examples of USA candidates would be public water systems and threatened and endangered species.) This effort will include mapping sensitive environmental areas adjacent to the line using the Global Positioning System and Geographic Information System. This information will support a more thorough investigation of environmental risks on the pipeline system as well as improving the allocation of resources to focus on potential problems in environmentally sensitive areas.

Finally, as part of the demonstration project, Chevron will reassess the risks of the demonstration site every two years to update its understanding of risks. Chevron will share the results of these risk assessments with OPS.

C. Purpose and Need for Action

As authorized by Congress, OPS is conducting a structured Demonstration Program to evaluate the use of a comprehensive risk management approach in the operations and regulation of interstate pipeline facilities. This evaluation is being performed under strictly controlled conditions through a set of demonstration projects being conducted with interstate pipeline operators. Through the Demonstration Program, OPS will determine whether a risk management approach, properly implemented and monitored through a formal risk management regulatory framework, achieves:

(1) Superior safety and environmental protection; and

(2) Increased efficiency and service reliability of pipeline operations.

In June, 1997, Chevron submitted a Letter of Intent to OPS asking to be considered as a Demonstration Program candidate. Using the consultative process described in Appendix A of the Requests for Application for the Pipeline Risk Management Demonstration Program (62 FR 14719), published on March 27, 1997, OPS is satisfied that Chevron's proposal will provide superior safety and environmental protection, and is prepared to finalize the agreement with Chevron on the provisions for the demonstration project.

D. Alternatives Considered

OPS has considered three alternatives: approval of the Chevron risk management demonstration project as proposed in Chevron's application; denial of the Chevron demonstration project; or approval of the project with certain modifications to Chevron's application.

OPS's preferred alternative is to approve the Chevron demonstration project. OPS is satisfied that the proposal will not significantly affect the surrounding environment. OPS expects the project will lead to superior levels of safety and environmental protection than provided under current regulatory requirements, because of the identification and analysis of effective risk control activities. Increased sharing between OPS and Chevron about potential pipeline risks will increase OPS's knowledge and awareness about potential pipeline threats, provide earlier opportunity to consider appropriate risk control options, and thereby support a more effective regulatory role in improving safety and environmental protection.

If OPS denied the project, it would lose valuable information concerning the sources of risks to Chevron's pipeline system and the most effective means of managing these risks. Denial would also significantly diminish OPS's ability to evaluate the effectiveness of an institutionalized, integrated, and comprehensive risk management program in producing superior performance, and would hinder OPS's ability to satisfy the objectives of the Risk Management Demonstration Program, and the requirements of the previously mentioned Presidential Directive.

All of the issues raised by OPS, state regulators, and other stakeholders about Chevron's proposed project have been discussed within the consultative process, resolved to OPS's satisfaction, and reflected in Chevron's application. Thus, we do not see any need to modify Chevron's proposal.

E. Affected Environment and Environmental Consequences

The Salt Lake Products Pipeline System is composed of 706 miles of pipeline right-of-way that originates at Chevron's Salt Lake City refinery and distributes refined product (gasoline, diesel, jet fuel) throughout the States of Utah, Idaho, Oregon, and Washington. Chevron has proposed the 330-mile portion of the system between Salt Lake City, Utah and Boise, Idaho as its demonstration project. The transported products meet the 49 CFR part 195 definition of petroleum products in that they are flammable, toxic or corrosive. This means that the highest priority for OPS and Chevron is ensuring that pipeline leaks and ruptures do not occur. Through risk management, Chevron intends to continuously improve the level of safety and environmental protection associated with operating this system.

Gasoline, diesel, and jet fuel are stable, flammable liquids. However, under rare circumstances, spills may result in the accumulation of highly flammable, heavier than air vapors in low areas. These vapors may also spread along the ground away from the spill site. Ignition of the vapor trail may occur if an ignition source is present. Localized damage created by a fire in the vicinity of the release could occur. These products form carbon oxides and various hydrocarbons which are dispersed into the atmosphere when burned. These products will also float on water, and large spills have been known to result in kills of fish and other aquatic life.

The Salt Lake Products Pipeline System has experienced five relatively small reportable releases since 1990. Two of these releases were caused by damage from third parties excavating near the line; two events resulted from external corrosion; and the final release was due to a welding defect. The volume of product released from the line in each instance was relatively small—the largest being approximately 365 barrels of jet fuel that occurred after an excavator pierced the line. The other four releases ranged from 88 barrels to 200 barrels. None of these releases resulted in injuries to pipeline personnel or members of the public, or caused a fire or explosion. The environmental impacts in each case were localized, cleaned to the satisfaction of regulatory agencies, and caused no permanent environmental damage.

Chevron is not requesting any exemptions from current regulations. The set of risk control activities that have been identified from the risk assessments of the Salt Lake Products Pipeline System (previously mentioned) go beyond the requirements of existing regulations to provide additional protection.

During the course of the consultation, Chevron presented the results of its risk control and decision support process that identified the risk control activities it proposes to implement on its proposed demonstration site. The OPS Project Review Team carefully reviewed these activities and has concluded that superior protection would be provided. As stated previously, all of these risk control activities go beyond the existing regulations in providing additional assurance of safety. The OPS review looked for potentially negative, unintended outcomes from the proposed activities but did not identify any significant negative impacts. OPS has concluded that Chevron's proposed risk control activities when combined with the existing company practices (which comply with and in some cases exceed 49 CFR part 195 requirements) will reduce the likelihood and consequences of pipeline accidents and leaks along the demonstration segment.

F. Environmental Justice Considerations

In accordance with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority and Low-Income Populations), OPS has considered the effects of the demonstration project on minority and low-income populations. As explained above, this project will not result in any significant environmental impacts, because Chevron will be complying with current applicable pipeline safety regulations. Residents along the segment will have the same level of protection that they presently have, regardless of the residents' income level or minority status. Therefore, the proposed project does not have any disproportionately high or adverse health or environmental effects on any minority or low-income populations near the demonstration facility.

G. Information Made Available to States, Local Governments, and Individuals

Since August 1997, OPS has used an Internet-accessible data system called the Pipeline Risk Management Information System (PRIMIS), available via the OPS Home Page at http://ops.dot.gov, to collect, update, and exchange information about all demonstration candidates, including Chevron. OPS has made the following documents publicly available through PRIMIS, and incorporates them by reference into this environmental assessment:

(1) ''Demonstration Project Prospectus: Chevron Pipe Line Company'', available by contacting Elizabeth M. Callsen at 202–366–4572. Includes a map of the demonstration segment. Purpose is to reach the public, local officials, and other stakeholders, and to solicit their input about the proposed project. The prospectus has been mailed to Local Emergency Planning Committees (LEPC) and other local safety officials, Regional Response Teams (RRT) representing other federal agencies, state pipeline safety officials, conference attendees, and members of public interest groups.

(2) ''Chevron Pipe Line Company—Application for DOT–OPS Risk Management Demonstration Program''.

(3) ''OPS Project Review Team Evaluation of Chevron Demonstration Project''.

(4) Notice of Intent to Approve Project, published concurrently with this environmental assessment.

OPS has provided additional information to the public about the Chevron project, and has requested public comment, using many different sources. OPS aired four electronic broadcasts (June 5, 1997; September 17, 1997; December 4, 1997; and March 26, 1998) reporting on demonstration project proposals (including Chevron's proposal). An earlier **Federal Register** notice (62 FR 53052; October 10, 1997) informed the public that Chevron was interested in participating in the Demonstration Program, provided general information about technical issues and risk control activities to be explored, and identified the geographic areas the demonstration project would traverse.

At a November 19, 1997, public meeting OPS hosted in Houston, TX, Chevron officials presented a summary of the proposed demonstration project and answered questions from meeting attendees. (Portions of this meeting were broadcast on December 4, 1997 and March 26, 1998.)

No issues or concerns about Chevron's proposal have been raised.

H. Listing of the Agencies and Persons Consulted, Including Any Consultants

Persons/Agencies Directly Involved in Project Evaluation

Stacey Gerard, OPS/U.S. Department of Transportation
Tom Fortner, OPS/U.S. Department of Transportation
Elizabeth Callsen, OPS/U.S. Department of Transportation
Bruce Hansen, OPS/U.S. Department of Transportation
Edward Ondak, OPS/U.S. Department of Transportation
Joseph Robertson, OPS/Western Region/U.S. Department of Transportation
Kent Evans, Utah Department of Commerce
Dennis Lloyd, Washington Utilities and Transportation Commission
Steve Rieger, Washington Utilities and Transportation Commission
Robert Brown, Cycla Corporation (Consultant)
Jim Quilliam, Cycla Corporation (Consultant)

Persons/Agencies Receiving Briefings/Project Prospectus/Requests for Comment

Regional Response Team (RRT), Regions 8 & 10, representing the Environmental Protection Agency; the Coast Guard; the U.S. Departments of Interior, Commerce, Justice, Transportation, Agriculture, Defense, State, Energy, Labor; Health and Human Services; the Nuclear Regulatory Commission; the General Services Administration; and the Federal Emergency Management Agency (RRT Co-Chairs: Doug Skie, EPA Region 8; Cdr. Ed Stanton, Coast Guard 8th District; James Everts, EPA Region 10; and Capt. James Morris, Coast Guard 13th District).

I. Conclusion

Based on the above-described analysis of the proposed risk management demonstration project, OPS has determined that there are no significant impacts associated with this action.

[FR Doc. 98–34145 Filed 12–23–98; 8:45 am]
BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–57 (Sub–No. 44X)]

Soo Line Railroad Company—Abandonment Exemption—in St. Louis County, MN

Soo Line Railroad Company (Soo) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon an approximately 1.18+/−mile portion of the West Duluth Line between milepost 464.25+/ and milepost 465.43+/ in West Duluth, St. Louis, County, MN.[1] The line traverses United States Postal Service Zip Code 55802.

Soo has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic formerly handled on the line 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*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 23, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 4, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 13,

[1] Pursuant to 49 CFR 1150.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. The applicant in its verified notice, indicated a proposed consummation date of January 25, 1999. However, because the verified notice was filed on December 7, 1998, consummation may not take place prior to January 26, 1999. Applicant's representative has been contacted and has confirmed that the correct consummation date is on or after January 26, 1999.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, 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 abandonments effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by December 29, 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 December 24, 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: December 17, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–34022 Filed 12–23–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; North American Free Trade Agreement Duty Deferral

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the North American Free Trade Agreement Duty Deferral. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 1999, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) 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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: North American Free Trade Agreement Duty Deferral.

OMB Number: 1515–0208.

Form Number: N/A.

Abstract: The North American Free Trade Agreement Duty Deferral Program prescribe the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program for exportation to another NAFTA country.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 1,783.

Estimated Time Per Respondent: 120 hours.

Estimated Total Annual Burden Hours: 250,000.

Estimated Total Annualized Cost on the Public: $3,900,000.

Dated: December 17, 1998.

J. Edgar Nichols,

Team Leader, Information Services Group.

[FR Doc. 98–34175 Filed 12–23–98; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register
Vol. 63, No. 247
Thursday, December 24, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1780

RIN 0572-AB33

Environmental Policies and Procedures

Correction

In rule document 98–32882 beginning on page 68648, in the issue of Friday, December 11, 1998, make the following correction:

§ 1780.33 [Corrected]

On page 68655, in the second column, after paragraph (f)(2), in the 4th line, ''revising'' should read ''reserving''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-962-1410-00-P and AA-10534]

Alaska Native Claims Selection

Correction

In notice document 98–32386 beginning on page 67492 in the issue of Monday, December 7, 1998, the docket number is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS 1962–98]

RIN 1115–AF31

Petitioning Requirements for the H–1B Nonimmigration Classification Under Public Law 105–277

Correction

In rule document 98–31953, beginning on page 65657, in the issue of Monday, November 30, 1998, make the following corrections:

§ 214.2 [Corrected]

1. On page 65660, in the first column, in § 214.2(h)(19)(iii)(C), in the fourth line, ''of'' should read ''or''.

2. On the same page, in the same column, in the same paragraph, in the 15th line, ''not'' should be removed.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS 1938–98]

Filing for Applications and Petitions for Treaty Trader and Treaty Investor (E) and Alien Entrepreneur (EB–5) Classification

Correction

In notice document 98–32237, beginning on page 67135, in the issue of Friday, December 4, 1998, make the following correction:

On page 67135, in the third column, in the second full paragraph, in the first line, ''[Insert date of publication in the **Federal Register**]'' should read ''December 4, 1998''.

BILLING CODE 1505-01-D

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Corporate Credit Unions; Credit Union Service Organizations; Advertising

Correction

In rule document 98–5450 beginning on page 10743, in the issue of Thursday, March 5, 1998, make the following correction:

§ 701.36 [Corrected]

On page 10756, in the second column, § 701.36, in the second line,''(a)(4)(iv)'' should read ''(b)(4)(iv)''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-221-AD; Amendment 39-10950; AD98-26-10]

RIN 2120-AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 20 Series Airplanes, Fan Jet Falcon Series Airplanes, and Fan Jet Falcon Series D, E, and F Series Airplanes

Correction

In rule document 98–33390 beginning on page 70004 in the issue of Friday, December 18, 1998, make the following correction:

§ 39.13 [Corrected]

On page 70005, in § 39.13, in the airworthiness directive, in the first column, in paragraph (e), ''January 22, 1998'' should read ''January 22, 1999''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 10

[Docket No. 98-08]

RIN 1557-AB62

Municipal Securities Dealers

Correction

In rule document 98–14016, corrected at page 35309 in the issue of Monday, June 29, 1998, make the following correction:

§ 10.2 [Corrected]

On page 29094, in the second column, in § 10.2 (a), the second sentence should be removed.''

BILLING CODE 1505-01-D

Federal Register

Thursday
December 24, 1998

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 999

Revised Quality and Handling Requirements and Entry Procedures for Imported Peanuts for 1999 and Subsequent Import Periods; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 999

[Docket No. FV98–999–1 FR]

Revised Quality and Handling Requirements and Entry Procedures for Imported Peanuts for 1999 and Subsequent Import Periods

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, with several modifications, the provisions of a proposed rule relaxing certain quality requirements; modifying entry procedures; revising handling requirements; reducing the reporting burden; and establishing a new reporting period for peanuts imported into the United States. Seven comments were received and are addressed in this final rule. Changes to the quality and handling requirements make the import requirements consistent, as required by law, with regulations covering domestically-produced peanuts under Marketing Agreement No. 146 (Agreement). Changes to import procedures and reporting requirements by the Agricultural Marketing Service (AMS) will improve efficiency of the importation process, ease the reporting burden, and provide importers with more time to meet peanut import regulation requirements. This final rule continues safeguard measures which prevent non-edible imported peanuts from being used in human consumption outlets in the United States. This rule will benefit peanut importers, handlers, and consumers by helping to ensure that all peanuts in the domestic marketplace comply with the same quality standards.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–6862, or fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber at the same address and fax number, telephone: (202) 720–2491. You may also view the marketing agreements and orders small business compliance guide at the following website: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This final rule amends the peanut import regulation (7 CFR 999.600) issued June 11, 1996, and published in the **Federal Register** (61 FR 31306, June 19, 1996), which regulates the quality of peanuts imported into the United States. Amendments to the regulation were issued December 31, 1996 (62 FR 1269, January 9, 1997) and September 19, 1997 (62 FR 50243, September 25, 1997).

The import regulation is effective under subparagraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c3) (Act), as amended November 28, 1990, and August 10, 1993, and section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271). These statues provide that the Secretary of Agriculture (Secretary) shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146 (7 CFR part 998) (Agreement), issued pursuant to the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674). The handling requirements in this rule are the same as, or similar to, those recommended by the Peanut Administrative Committee (Committee or PAC), the administrative agency that oversees the Agreement's quality assurance program.

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the regulations, importers of foreign-produced peanuts must: Follow certain entry procedures with the U.S. Customs Service (Customs Service); obtain certification that such peanuts meet edible quality requirements or are disposed to non-edible peanut outlets; and report disposition of peanuts to AMS within an established time period. This rule finalizes several proposed changes to the current regulation to relax quality requirements, modify entry procedures, and relax reporting requirements. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The proposed rule was published in the **Federal Register** of August 31, 1998 (63 FR 46181). Over 350 copies of the proposed rule were mailed to: (1) Embassies of exporting countries and the National Institute for Technical Standards (NIST) which forwards such notices to the World Trade Organization; known exporters, importers, and customs house brokers; (2) the domestic peanut industry entities including grower associations, handlers, manufacturers, blanchers, and warehouse operators; and (3) Customs Service ports and headquarters offices, the Food and Drug Administration (FDA), Federal-State Inspection Service (inspection service) offices, and Federal and private aflatoxin laboratories. The rule was available on the Internet at the **Federal Register** website and at the homepage of AMS' Marketing Order Administration Branch—which offered a direct link for submitting comments electronically. Finally, AMS issued a press release announcing the proposed rule on August 27, 1998.

A 30-day comment period was provided for interested parties to comment on the recommended changes to quality requirements and import procedures and on regulatory impact of the recommended changes. A 60-day comment period was provided for interested parties to comment on proposed changes to the reporting and recordkeeping requirements.

Comments Received

Seven comments were received on the proposed changes to importation procedures. Six of the commenters represented major sectors of the domestic peanut industry: the Peanut Administrative Committee, the three grower associations, a state peanut commission, and a domestic peanut handler association whose members also import peanuts. One importer filed a comment. The comments generally supported the proposed changes to the import regulation, particularly the addition of positive lot identification requirements and changes to make the import regulation consistent with Agreement regulations. The comments recommended changes to, and in a few cases opposed, specific technical and procedural requirements in the peanut regulation. The comments are addressed below.

A growers' association representative commented on Recommendation 2 concerning the revised definition of paragraph (a)(16) *Conditionally released*. He commented that the proposed definition and the wording in proposed new paragraph (f)(3) ''may imply that imported peanuts could be forwarded to buyers, remillers or blanchers without being inspected, certified or positive lot identified.'' The commenter suggested that the regulation be modified to require that all lots be

sampled before conditional release by the Customs Service.

While AMS appreciates the commenter's concerns that imported lots could be sent to buyers, remillers or blanchers before inspection, AMS does not believe that sampling before conditional release, in and of itself, will guarantee that all lots are inspected. The stamp-and-fax procedure—which occurs before the sampling process—is the procedure which helps guarantee notification of the inspection service and assures subsequent sampling and inspection of the peanuts.

Requiring sampling before conditional release by the Customs Service could result in overflow situations at ports when quotas open. It also could substantially increase inspection costs for some importers. For instance, at quota opening, a port facility may not be able to hold the large number of containers that have been landed at the port. Experience from 1997 shows that some containers waited for several days at dockside, exposed to the weather, while various government clearances were issued. AMS does not want its sampling and inspection requirements to delay onward movement of peanuts.

Further, importers ship the conditionally released peanuts inland for inspection, or ship the lots to Customs bonded warehouses that are closer to inspection offices. Among other things, this lowers inspection costs. The stamp-and-fax process enables this movement with the assurance that the inspection service has been notified and will follow up with an inspection.

The commenter does raise an important point that should be incorporated into the final rule. The commenter suggested that the proposed conditional release definition implies that peanuts may be sent directly to remilling or blanching facilities without first being inspected and positive lot identified (PLI). However, the Agreement regulations specify that any lots moved to a remiller or blanching operation must be accompanied by a valid grade certificate (with PLI). This requirement was not established in Part 999.600 because AMS did not contemplate that importers would risk the costs involved in shipping peanuts to the U.S. unless they were reasonably certain that the peanuts would meet outgoing quality requirements.

However, it is possible that some imported peanuts may not be of the highest quality or may deteriorate while in storage—before initial inspection is conducted. In such cases, the importer may be inclined to send the stored lot directly to reconditioning before obtaining an initial inspection, thus, avoiding initial inspection costs. Indeed, since publication of the proposed rule, two instances of this practice have come to the attention of AMS.

After review of the comment, AMS concurs with the commenter's suggestion for two reasons. First, movement of an uninspected lot from a storage facility directly to a remiller or blancher is movement that is likely not under Customs Service bond (as was the initial shipment to the bonded warehouse). Secondly, AMS compliance monitoring and oversight is more difficult to maintain because there is no valid paperwork to tie the reconditioned lot directly back to a container or lot specified on a stamp-and-fax entry. Initial inspection and PLI establishes needed lot identity, and should be carried out before the lot is broken down into two or more parts during reconditioning.

Therefore, to assure that imported peanuts are inspected prior to reconditioning, this final rule removes the phrase ''* * * and, if necessary, reconditioning.'' from the proposed definition of *Conditionally released* in paragraph (a)(16). The definition will now read *''Conditionally released* means released from U.S. Customs Service custody for further handling, sampling, inspection, chemical analysis, or storage.'' For further clarification, the following sentence will be inserted as the new fourth sentence in new paragraph (d)(4) on Positive Lot Identification: ''All lots forwarded to a reconditioning facility must be accompanied by valid PLI certification.''

The manager of the Peanut Administrative Committee (Committee—responsible for daily oversight of the domestic Agreement program) filed a comment on Recommendation 5 requesting a minor change in the grade requirements of the revised ''Minimum Grade Requirements'' table proposed in paragraph (c)(1). He requested the modification to make the import requirements consistent with domestic industry practice. The manager acknowledged that when the Committee recommended, for the domestic program, removing Table 2 and incorporating the last three categories (Runner, Virginia and Spanish/Valencia ''splits with not more than 15 percent sound splits'') into Table 1, the Committee ''inadvertently'' failed to recommend modification of the tolerance for Foreign Material in the three categories which are moved. The foreign material content in the three moved categories was .10 percent in old Table 2 but should be relaxed to .20 percent to be consistent with the foreign material contents of the other peanut categories already listed in the Minimum Grade Requirements table. The manager commented that the foreign material content for all categories in the revised table should be the same, i.e., .20 percent. It is our understanding that this matter will be reviewed by the Committee and considered at its next meeting. If recommended and implemented for the domestic program, a corresponding change would be made in the import regulation. Further, this change was not proposed for comment in this proposed rulemaking action.

Two commenters addressed Recommendation 7 that proposed a maximum size for farmers stock lots. The commenters correctly stated that the proposed maximum size of 24,000 pounds was based on dryer wagons used in the domestic industry to move farmers stock peanuts from fields to buying points. They pointed out that proposed size is, indeed, too small for semi-trailer trucks used to transport farmers stock peanuts from Mexico. They suggested that the maximum size should be 50,000 pounds, which is the approximate load capacity of a semi-trailer. One commenter stated that, when collecting farmers stock samples from the semi-trailers at incoming inspection, the inspection service uses different probe patterns specifically for the larger volume trailers.

After review and consultation with the inspection service, AMS agrees that the 24,000 pound maximum weight is incorrect. AMS concurs with the recommendation from the two commenters that the maximum size of farmers stock lots should be 50,000 pounds (22,680 kilograms). This change is made to the proposed new second sentence added to paragraph (d)(3)(C)(ii).

Two commenters questioned the accuracy of a statement in the discussion of Recommendation 8 on positive lot identification. Page 46184 of the preamble reads, in part:

> ''It shall be noted that under the Agreement and import programs, a failing lot that is reconditioned must be re-certified for both grade and aflatoxin content after reconditioning. It does not matter whether the original lot fails for grade or aflatoxin analysis: both analyses must be conducted a second time. The reconditioned lot is considered to be a new lot because the size and quality is different from the original lot, and the previous lot identity has been lost.''

The accuracy of this statement has been confirmed. Reconditioned lots must receive both grade and aflatoxin

certifications. This is a requirement of the Agreement program. No regulatory text needs to be changed.

Two commenters requested a modification of the ''source'' documents proposal added to paragraph (f)(2) in Recommendation 17. The proposal would have required that ''source'' documents be used to prove disposition of failing peanuts to non-edible outlets. Source documents are documents originating from the business entity carrying out the actual disposition of the peanuts. One commenter stated: ''* * * trying to obtain documents from entities not associated with the normal activities of the peanut business will be difficult and in some cases impossible.'' The commenters pointed out that bills-of-lading filed by Committee-approved blanchers and remillers are acceptable to the Committee as sufficient proof of proper non-edible disposition (most often to oilmills). The commenters also pointed out that the same standard should be applied to importers under the import regulation. This change will not alter the volume of reports required under the information collection burden, but it can ease the difficulty importers might have had in obtaining the information to be reported.

Committee-approved blanchers and remillers are: American Blanching in Fitzgerald, GA; Cargill Peanut Products in Dawson, GA; Clint Williams Co. in Madill, OK; Coastal Cold Storage in Albany and Donalsonville, GA; Doster Warehouse, Inc. in Rochelle, GA; Peanut Processors, Inc. in Dublin NC and Sherman, TX; Seabrook Enterprises, Inc. in Edenton, NC and Sylvester, GA; Tidewater Blanching Corp. in Suffolk, VA; Tom's Foods, Inc. in Columbus, GA; and Universal Blanchers in Blakely, GA, Ozark, AL, and Dublin, TX. In addition, any domestic peanut sheller may be contracted to remill imported peanuts, provided that sheller agree to comply with import program reporting requirements, including certification as to the disposition of residual peanuts from the remilling operation.

After careful review, AMS concurs with the comments filed on this proposal. Committee-approved blanchers and remillers are the same entities used by importers. Experience shows that they are the primary, if not the only, entities filing bills-of-lading on imported peanuts sent to oilmills. The importer is responsible for assuring the filing of bills-of-lading by any blancher or remiller used by the importer. The receiving entity, such as an oilmill or feedlot, would not have to file proof of crushing or feed use.

Likewise, bills-of-lading filed by the importers and other entities, such as bonded warehouses, also are acceptable as valid certification of non-edible disposition. The regulation provides a safeguard against edible use by requiring that shipments of non-edible peanuts be positive lot identified and red tagged for non-edible use only. The bill-of-lading must also show the weight of the non-edible peanuts, the name and location of the entity receiving the peanuts, and transfer certificates or inspection certificate numbers which tie the residuals back to failing lots. When applicable, the volume reported must reflect residual lots commingled prior to such shipment. Therefore, the proposed amendment to require source documents is withdrawn in this final rule.

Two commenters opposed Recommendation 19 which proposed, in new paragraph (f)(5), a 60-day extension of the reporting period. Both commenters believe that lengthening the reporting period to 180 days (Recommendation 18) should be sufficient for importers to meet program requirements. One commenter suggested that an extension of the reporting period beyond 180 days would be necessitated by management decisions that have nothing to do with congestion in shelling and reconditioning facilities. The commenter's analysis is correct. However, the extension is not offered only to alleviate congestions that occur at remilling and blanching facilities. Domestic peanut handlers are not restricted by reporting deadlines under the Agreement and non-signer peanut programs. The Act specifies that, to the extent practicable, peanut importers should be provided similar opportunities to make appropriate management decisions regarding disposition of imported peanuts. Extending the deadline an additional 60 days beyond the revised 180 day reporting period should help importers in this regard.

The original reporting time period was established at 30 days, with an extension period of 60 days at the request of the importer. The initial 30-day period was too short and extensions were necessary for nearly all peanut lots imported during 1997 and 1998. Even with the new 180 day reporting period established in this rulemaking, AMS believes that, on occasion, importers will need additional time to dispose of some lots. AMS is not concerned that the extended reporting period will jeopardize safeguard procedures. Importers, as well as domestic peanut handlers, understand that the longer peanuts remain in storage the more chance there is for deterioration of product and the higher the risk of failure to ultimately meet quality requirements.

Also, under this rule, AMS would not automatically grant extensions at the end of the 180-day reporting period. Extensions must be requested in writing and provide information specific to the lot, including proof that positive lot identification has been maintained. AMS will not lose track of imported peanuts held in storage for extended periods.

One of the commenters suggested that the total 240-day reporting period is unfair because ''a domestic producer has only 24 hours to recondition a load of peanuts * * *'' A domestic producer's submission of farmers stock peanuts at a buying point is not comparable to importers obtaining final, outgoing inspection on milled peanuts. The commenter evidently is referring to the period time following submission raw, farmers stock peanuts for grading at a buying point. Under recently revised USDA Farm Service Agency (FSA) procedures, farmers stock peanuts graded as less profitable Segregation 3 peanuts, subject to certain conditions, may be cleaned by the producer and resubmitted, as a new farmers stock lot, for Segregation determination. The Segregation grade determines the support price that FSA will purchase the peanuts, if so demanded by the producer. The ''24 hour rule,'' as it is known in the domestic peanut industry, relates to FSA procedures and may impact prices paid to producers under its peanut price support program. Finally, domestic handlers are not subject to some other ''24 hour rule'' when preparing Segregation 1 peanuts for edible market. That is, the ''24 hour rule'' is not applicable to imported farmers stock peanuts. AMS believes the 60-day extension period, as proposed, is reasonable and necessary to maintain conformity with the Agreement program. The comments on this issue are not adopted.

Two commenters questioned a phrase in the discussion of Recommendation 20 regarding treatment of peanuts which are landed in the U.S. in excess of the quota. The new paragraph states that such peanuts may be either exported, held in bonded storage for the next quota year, or ''entered as admittable.'' The commenters questioned the phrase ''entered as admittable.'' This phrase was inserted to cover an importer's option to pay tariff charges on the peanuts entered in excess of the quota. The Department believes that the discussion of new paragraph (f)(6) should be clarified by restating that peanuts which are landed in the U.S. in excess of the quota may be either

exported, held in bonded storage for the next quota year, or entered under tariff charges. Peanuts entered under tariff charges are subject to the stamp-and-fax procedure and inspection requirements—as are all peanuts entered for consumption.

The importer commented that incoming inspection of imported farmers stock peanuts should be sufficient for meeting import quality requirements. AMS already has established that imported peanuts intended for edible consumption must be certified as meeting outgoing quality requirements and contain not more than 15 ppb aflatoxin content.

The importer suggested that country of origin designation should not be included on outgoing certificates of lots originating from imported farmers stock. The inspection service enters the country of origin on the inspection certificates, so there is no additional burden on importers. AMS already has established that country of origin designation enables AMS to carry out its compliance responsibilities. Customs Service requirements also apply.

The importer commented on farmers stock peanuts imported under bond as non-quota peanuts for the purposes of shelling and re-export. The importer complained that the ''shells, foreign material, and oilstock'' from such shelling should not have to be re-exported with the shelled peanuts. AMS believes the commenter is referring to merchandise that is entered as Temporary Importation Under Bond, found in Customs Service regulations 19 CFR 10.31 through 10.40. This, however, is not an AMS requirement.

Two commenters questioned the last sentence in redesignated paragraph (f)(8) *Early arrival and storage,* pursuant to which the Secretary may require reinspection of a lot at the time the lot is declared for entry. This requirement was already in the regulation. The commenters appear to interpret this statement as a requirement that lots held in storage for more than one month prior to quota opening must be reinspected at the time of entry declaration. This is not the case. The intent of paragraph (f)(8) is just the opposite—inspection certificates on lots held in storage for more than one month prior to quota opening are good at the time of entry. The sentence questioned by the commenters simply refers to provisions in the preceding paragraph that USDA (the Secretary) has the right to require reinspection on any imported lot at any time during the importation process. In the case of lots held in storage for long periods before quota opening, AMS thought it appropriate to remind importers that such lots, with cause, may be required to be re-inspected.

Finally, no comments were received that addressed the proposed rule's Regulatory Flexibility Analysis on the impact on small business or the reduction in the Reporting and Recordkeeping Burden.

Discussion

The peanut import regulation was issued June 11, 1996. At that time, three duty free peanut quotas for 1996 had been filled and no peanuts were entered under duty for the remainder of 1996. Therefore, the peanut import regulation had its first practical application on January 1, 1997, when the Mexican peanut quota opened, and again on April 1, 1997, when Argentine and ''other country'' quotas opened. By international agreements, these three duty free peanut quotas increase each year, allowing more foreign-produced peanuts duty free access to U.S. markets. For the 1999 peanut quota year, the Mexican quota will total approximately 8.7 million pounds (3.95 million kilograms). Argentina's 1999 peanut quota will total approximately 89 million pounds (40.4 million kg.) and the quota for all other countries will be approximately 17.7 million pounds (8 million kg.). The total volume will be about a 10 percent increase over the combined 1998 peanut quotas.

The Committee met April 29 and 30, 1997, and recommended relaxations to the quality and handling requirements of the domestic peanut program. Those relaxations have been finalized by the Department of Agriculture (USDA) and made effective for domestically-produced peanuts. Where applicable, those changes are proposed for imported peanuts in this rulemaking. The Committee met a second time on May 27, 1998, and unanimously recommended no further changes in the domestic program's quality requirements or handling procedures. In addition, after review of the entry and certification process, AMS proposed additional modifications to the import regulation to increase the efficiency of the importation procedure and relax reporting requirements.

Based on the comments received and discussed above, this rulemaking action finalizes the following modifications to § 999.600.

(1) This action removes a phrase in the definition of *Negative aflatoxin content,* in Section 999.600, paragraph (a)(10). The phrase, ''and 25 parts-per-billion (ppb) or less for non-edible quality peanuts,'' is removed because that action level is no longer used for non-edible peanuts. This revision makes the requirements under these regulations consistent with those under the Agreement. Molds such as *Aspergillus flavus (A.flavus)* are present naturally in soil. Aflatoxin is a carcinogen which may develop from *A.flavus,* which is more likely to be found on stressed peanut plants and damaged or defective kernels than on sound, whole kernels.

Also, in paragraph (a)(15), Marketing Agreement No. 146 was referred to as the Peanut Marketing Agreement No. 146. The word ''peanut'' is not a part of the title of the Agreement and is removed from the definition to make it technically correct.

(2) This final rule changes the definition of *Conditionally released* in § 999.600, paragraph (a)(16), to conform with Customs Service terminology. The previous definition stated that peanuts were conditionally released for further handling ''before final release.'' The phrase ''final release'' is not consistent with Customs Service terminology and should be removed to avoid confusion. This rule defines conditionally released as ''released from U.S. Customs Service custody for further handling, sampling, inspection, chemical analysis, and storage.'' These activities are conducted to meet the requirements of the import regulation. If inspection and certification are not obtained prior to application for entry, or if peanuts are not held in Customs Service bonded storage facilities when inspected, the peanuts shall be conditionally released for such inspection and needed reconditioning. Conditional release provides more time for importers to obtain inspection certifications and to report compliance with the import regulation.

The definition in the proposed rule included an ending phrase ''and, if necessary, reconditioning.'' Based on comments received and discussed under the ''Comments'' section, above, this phrase is removed from the definition.

(3) This rule removes a redundant sentence in paragraph (b)(1) of § 999.600. The second sentence stated that ''only Segregation 1 peanuts may be used for human consumption.'' This sentence is re-stated at the end of the paragraph and is more appropriately placed at the end of the paragraph.

(4) Paragraph (c)(1)(i) of the *Outgoing regulation* in § 999.600, currently states that ''no importer shall ship or otherwise dispose'' of imported peanuts unless the peanuts meet certain import requirements. The introductory sentence is amended by removing the words ''ship or otherwise.'' This change makes the text consistent with the

revised text of corresponding paragraph (a) of § 998.200 of the Agreement regulations.

This modification has the effect of removing text which allowed forwarding of very high quality imported peanuts to buyers before receipt of quality certifications. However, the impact of this modification is not expected to be significant. Given the quality of imported peanuts, importers have been reluctant to forward lots to buyers prior to receipt of both grade and aflatoxin certifications. The risk of having to have the lot returned for reconditioning is greater than the benefit of shipping a few days early. The delays are not excessive as aflatoxin analyses are usually completed within two or three days, and the results faxed back to importers. Finally, grade and aflatoxin certifications often are completed before other Federal agency clearances are received. Therefore, this modification will not have an impact on the importation process or on peanut importers. This modification is made in conjunction with Recommendation 6.

(5) To be consistent with a recent change in the Agreement regulation's ''Other Edible Quality'' table, this final rule relaxes the tolerance for ''Unshelled and damaged kernels'' (from 1.50 to 2.00 percent) in the ''lots of splits'' categories specified in Table 1, ''Minimum Grade Requirements'' of paragraph (c)(l)(i). The new requirement now matches the tolerance for ''Unshelled and damaged kernels'' as specified in the U.S. Grade Standards for Peanuts. Table l shows the current tolerance for unshelled and damaged kernels as 1.50 percent (the second column under ''Lots of splits''). The tolerance will be relaxed to allow for 2.00 percent unshelled and damaged kernels in split lots. The relaxation in tolerance of one half of one percent will reduce the number of imported peanut lots that need to be reconditioned to meet outgoing quality requirements. This will save importers reconditioning costs and storage costs. This relaxation already has been made effective for domestically-produced peanuts.

(6) This modification removed the text of paragraph (c)(1)(ii) and the first six grade categories in Table 2—Superior Quality Requirements. The Committee established Table 2 in the Agreement regulations several years ago to qualify higher grade peanut lots for its indemnification program. However, the indemnification coverage has been greatly reduced by recent Committee actions, and the first six grade categories are no longer certified under the Agreement. Thus, those grade categories are removed from the import regulation in this rulemaking action.

The final three grade categories in Table 2, covering domestically-produced peanuts with not more than 15 percent sound split kernels, still have a small domestic marketing niche and have been moved to Table 1 under the Maximum Limitations category in the Agreement regulations. To be consistent with that modification, the last three imported ''with splits'' categories covering Runners, Virginias, and Spanish and Valencia with ''not more than 15 percent sound splits'' are moved to the Minimum Grade Requirements table in paragraph (c)(1)(i) of the import regulation. Also, to be consistent with the other maximum tolerances in the ''Unshelled peanuts and damaged kernels'' column, and in the ''Minor defects'' column, the percentage tolerances for the three transferred categories are increased (relaxed) from 1.25 to 1.50 percent and from 2.00 to 2.50 percent, respectively.

Recommendations 5 and 6 have the effect of relaxing the minimum quality requirements of the import regulation, and, together, simplify grade requirements by providing only one set of peanut quality requirements for human consumption use. While these changes remove a provision that allows shipment of high quality lots to buyers immediately after grading, given the nature of peanut quality and importation processes, the changes are not expected to delay shipments or negatively affect the handling of imported peanuts.

To effectuate the above three changes, paragraph (c)(1)(i) is modified by removing the words ''ship or otherwise.'' The text and the first six grade categories of Table 2 in paragraph (c)(l)(ii) also are deleted from the regulation, and the last three grade categories are moved to the table in paragraph (c)(1)(i). Paragraph (c)(1)(iii) is redesignated as paragraph (c)(l)(ii) and a conforming change is made to that paragraph by deleting the second sentence which specifies that samples must be taken from Superior Quality peanut lots prior to shipment. Finally, because Table 2 is deleted, it is not necessary to refer to the ''Minimum Grade Requirements'' table as Table 1. Conforming changes are made in paragraph (c)(1)(i), introductory paragraph (e), and in paragraph (e)(3).

(7) Paragraph (d)(3)(ii) is changed to specify a maximum lot size for farmers stock peanuts. The import regulation currently specifies the maximum lot size for farmers stock, cleaned-inshell and shelled peanuts as 200,000 pounds (90,720 kilograms). However, the 200,000 pound size limit is applied only to shelled peanuts under the Agreement, and is based on an understanding between the Committee and the inspection service, reached some years ago. The maximum lot size for domestically-produced, farmers stock peanuts is limited to one conveyance, or two or more conveyances with a combined weight not exceeding 24,000 pounds (10,886 kilograms). The smaller lot size is established for farmers stock peanuts because that is the standard size of wagons used to transport domestically produced farmers stock peanuts from the field to buying points. Peanuts in this form have not undergone extensive cleaning and sorting processes and, generally, contain more foreign material and *A.flavus* mold than lots of milled peanuts. Smaller lot sizes help increase the effectiveness of inspection by reducing sampling variability and increasing the likelihood that the collected sample is representative of the entire lot. The 200,000 pound limit for shelled peanuts is the maximum volume on which random sampling procedures can be systematically and accurately implemented.

The proposed rule suggested the maximum farmers stock lot size to be 24,000 pounds. However, two comments requested that the maximum lot size for farmers stock peanuts be increased to 50,000 pounds. Their argument is included in the ''Comments'' section above. AMS believes this change has merit. Therefore, under this final rule, foreign-produced peanuts imported in farmers stock form will be inspected in single conveyances or combined conveyances not exceeding a total of 50,000 pounds. Only a small percentage of the peanuts imported during 1997 and 1998 were imported in farmers stock form, and all complied with this maximum lot size. This inspection practice will help exporters plan their shipments and will not have a negative impact on future imports of farmers stock peanuts. For these reasons, the second sentence of paragraph (d)(3)(ii) is modified to provide a maximum lot size of 50,000 pounds (22,680 kilos) for farmers stock peanuts.

Paragraph (d)(3)(i)(A) is changed to reflect closing of the inspection office in Yuma, Arizona. The introductory sentence in paragraph (d)(3)(i)(B) is changed to more accurately reflect the sampling service provided by some inspection service offices.

(8) This final rule strengthens the lot identification requirements for shelled peanuts by adding new paragraph (d)(4) of the import regulation. The Agreement regulation requires Positive Lot

Identification (PLI), generally using tags which are sewn on each bag or super sack of domestically-produced shelled peanuts. The PLI tag is applied after shelling, at the time of packaging and inspection. The previous import regulation did not require PLI tags sewn at the time of first inspection when several hundred thousand pounds of peanuts arrived at a port-of-entry at one time. Such a requirement would be a burden on importers because of the large volume and lack of equipment, space, and time needed to sew tags on individual bags. However, better lot identification for imported peanuts is needed to insure integrity of the peanut import program.

Lot identification practices currently applied to imported peanuts by the Federal-State Inspection Service (inspection service) provide that lots, or pallets within a lot, be identified by a tag which is affixed to the lot or pallet. Such identification does not prevent the individual bags, sacks, or cartons in the lot from being tampered with or exchanged with other bags, sacks, or cartons. The inspection service cannot insure integrity of a lot that is only ''lot identified.'' Simple lot identity does not guarantee that peanuts drawn in a second sample under an appeal process come from the same peanut lot or containers from which the first sample was drawn.

This rule provides a more reliable PLI to be applied to shelled peanuts by the inspector at the time of first inspection. This may include: (1) Wrapping PLI tape around the top layer of bags or boxes in such a way that no peanuts could be removed or added; (2) shrink wrapping pallets or multiple bags with a PLI sticker applied to the wrapped pallets or bags; (3) stamping or stenciling and numbering individual bags or boxes; (4) affixing a PLI seal to the door of a shipping container so that it cannot be opened without breaking the seal; or (5) other methods acceptable to the inspection service that clearly identify the lot, is securely affixed to the lot, and prevents peanuts from being removed or added to the lot.

These PLI methods represent substantially less burdensome and less costly procedures than PLI tags sewn on individual bags. For instance, stenciling bags with a spray paint is a faster and much less expensive method of lot identity that represents an acceptable alternative to sewing tags on individual bags. The inspection service office in Suffolk, Virginia, used stenciling of imported peanuts in bags during the 1997 and 1998 quota years. These methods also do not require special training or equipment and can be carried out by inspection service personnel throughout the U.S. These methods do not require substantial extra time or material at the time of first inspection. Increased costs to the importer will be in the form of a few extra minutes to wrap pallets or stencil bags, and would vary with the size and containerization of each lot. These PLI methods may increase average storage costs when warehouse space for inspection is very limited or when an unusual amount of movement of lots is required during lengthy warehouse storage. However, increased costs should not be significant in comparison to overall costs of importation. Also, importers benefit from improved lot identity if they request an appeal inspection on the lot or if the Customs Service demands redelivery of the lot.

The inspection service currently works with domestic peanut handlers and storage warehouses to determine the most appropriate PLI or lot identity method to be used. The same cooperative relationship should apply to importers. Several factors dictate which PLI method should be used: (1) Size of the lot; (2) storage space on the wharf or in the warehouse; (3) required further movement of the lot prior to receipt of certification; and (4) other needs of the importer, wharf or warehouse operators, or the Customs Service. Any request for extension of the reporting period, or appeal inspection, must include the PLI number or designation of the lot needing additional reporting time.

AMS believes that these increased lot identity practices outweigh the possible minimal increases in handling or inspection costs associated with better lot identification. Tighter lot identity requirements are consistent with practices currently used by the inspection service to PLI domestically-produced peanuts. PLI also helps importers maintain the integrity of lots, should questions arise from the Customs Service after conditional release.

AMS believes that positive lot identification of inspected lots is essential in maintaining the integrity of imported shelled lots after first inspection. Lots failing grade and aflatoxin certifications can be appealed pursuant to current paragraph (d)(5). In the appeal process, the lot is sampled a second time. Without PLI, there is no guarantee that peanuts sampled under an appeal inspection are the same peanuts as those which failed initial inspection. Therefore, a sentence will be added to current paragraph (d)(5) to provide that peanut lots which show evidence of tampering or PLI violation, will not be eligible for an appeal inspection.

These PLI methods will be applied to peanut lots at the first inspection. If a lot subsequently fails either grade or aflatoxin analysis, the lot may be sent to a remilling or blanching operation for reconditioning. In such cases, PLI of the lot from the warehouse to the reconditioning site and during reconditioning does not have to be maintained. However, the importer must maintain information which ties the reconditioned lot to the original lot. This information must be provided to the inspection service upon inspection after reconditioning. Thus, inspection surveillance of the lot does not have to be maintained during reconditioning. This lot identity procedure is consistent with the handling requirements for domestically-produced peanuts under the Agreement.

PLI requirements after reconditioning also are updated in this final rule to make the treatment of reconditioned imported peanuts consistent with current industry practice for domestically-produced peanuts. Under Agreement requirements, failing lots that are reconditioned by remilling or blanching are positive lot identified by sewing tags on bags and by taping and tagging bulk bins. For shelled peanuts, the tag is sewn into the closure of the bag. In plastic bags, the tag is inserted prior to sealing so that the official stamp is visible. This is the most efficient PLI procedure and is currently carried out by the remiller or blancher at the end of the remilling and blanching process. The inspection service certifies the reconditioned lot based on the PLI tags applied to bags and bins. Bulk shipments and bulk bins are positive lot identified by sealing the conveyance and, if in other containers, sealed by means acceptable to the inspection service. This rule ensures that the same PLI procedures are applied to imported peanuts which are reconditioned by remilling or blanching. Costs for these PLI measures are covered in the remilling and blanching charges, and, thus, will not be expected to increase costs for importers. Indeed, some blanching operations used this PLI method on imported peanuts during 1997 and 1998.

These PLI requirements and procedures are established in the import regulation by adding a new paragraph (d)(4) and redesignating original paragraphs (d)(4) and (5) as (d)(5) and (6), respectively. Also, references to lot identity in paragraphs (c), (d), (d)(1) and (g)(6) are amended to read ''Positive Lot Identification.''

It should be noted that under the Agreement and import programs, a failing lot that is reconditioned must be

re-certified for both grade and aflatoxin content after reconditioning. It does not matter whether the original lot fails for grade or aflatoxin analysis; both analyses must be conducted a second time. The reconditioned lot is considered to be a new lot because the size and quality is different from the original lot, and the previous lot identity has been lost. This procedure was in effect and properly carried out for reconditioned imported peanuts in 1997 and 1998. Comments received indicate some confusion among handlers with the accuracy of this paragraph. As discussed previously in the Comments Received section, above, the paragraph does conform with the requirements of the Agreement, and, in general, FSA limitations can apply in some cases. A clarification is included in the Comments Received section, above.

A minor clarification is added to redesignated paragraphs (d)(5)(ii) and (iii). These paragraphs refer to a ''notice of sampling'' as the inspection service's grade certification of shelled peanuts. The inspection service now commonly uses the ''Milled Peanut Inspection Certificate,'' AMS form FV–184–9A, to certify the grade quality of shelled peanuts. That form's title is added to paragraphs (d)(5)(ii) and (iii).

It should also be noted that containers of imported lots of shelled peanuts may be subdivided prior to inspection. During the 1997 and 1998 quota years, some containers of shelled peanuts, when off-loaded and made available for inspection, revealed wet or moldy bags. The importers, suspecting such bags would fail quality requirements, isolated the wet and moldy bags apart from other bags in the container to reduce possible contamination of good peanuts. This practice is acceptable and can be done at a Customs Service bonded warehouse without inspection service oversight. If the moldy bags are held separately in a Customs Services bonded warehouse and then re-exported without leaving Customs Service custody, those moldy bags do not have to be reported to AMS—except that the difference in the volume reported on the stamp-and-fax form and the volume inspected must be reported to the inspection service.

However, if the moldy bags are combined into a separate lot and identified on an inspection certificate, or moved out of Customs custody, the bags are subject to import requirements and must be reported as a separate peanut lot. If such a lot fails quality requirements, it may be reconditioned, disposed to an non-edible peanut outlet pursuant to import requirements, or re-exported pursuant to Customs Service procedures. These dispositions must be reported to AMS.

Four of the seven comments received agreed with implementation of positive lot identification procedures.

(9) The second to the last sentence in original paragraph (d)(4)(iii) provides that laboratories shall provide aflatoxin assay results to the importer. Upon review, USDA determines that this sentence is duplicative of provisions in original paragraph (d)(4)(v). Thus, this rule removes the second to last sentence of original paragraph (d)(4)(iii).

(10) Several changes in the regulatory text are made regarding reporting of aflatoxin certifications to AMS. Original paragraph (d)(4)(iv)(A) provides that importers ''should'' contact one of the laboratories to arrange for chemical analyses of imported peanut lots. However, because chemical analysis is required under the regulation, the word ''should'' does not convey the mandatory nature of the requirement that aflatoxin analysis must be conducted on all imported peanut lots intended for human consumption. Thus, the first sentence of redesignated paragraph (d)(5)(iv)(A) is revised to state that importers ''shall'' contact one of the laboratories to arrange for chemical analyses.

Original paragraph (d)(4)(v) is revised to include the requirement that importers ''shall cause'' aflatoxin certifications to be reported to AMS. The last sentence in original paragraph (d)(4)(v)(B) is revised and moved to redesignated paragraph (d)(5)(v) for more appropriate placement of the instructions.

(11) The list of aflatoxin testing laboratories shown in original paragraph (d)(4)(iv)(A) is updated in this rulemaking action. The laboratory in Ashburn, Georgia formerly operated by AMS is now operated privately as a PAC-approved laboratory. The USDA laboratory in Dothan, Alabama is now operated by the Alabama-Federal State Inspection Service. In addition, three new laboratories in Headland, Goshen, and Enterprise, Alabama have been certified by AMS and approved by the PAC as Alabama-Federal State laboratories. The PAC-approved laboratory in San Antonio, Texas is dropped from the list as that laboratory no longer certifies the aflatoxin content of peanut lots. The name of the AMS office that operates USDA laboratories and certifies the private laboratories has been changed from Science and Technology Division to Science and Technology Programs.

Since publication of the proposed rule, AMS has been notified of a location change and two new laboratories. The Pert laboratory in Sylvester, Georgia has moved to Colquitt, Georgia. A Pert laboratory has been opened in Blakely, Georgia and a Leek laboratory has been opened in Headland, Alabama. Contact information for these laboratories is added to paragraph (d)(4)(iv)(A). In addition, area code numbers have been updated in this paragraph and in inspection offices in paragraph (d)(3)(i)(A).

The import regulation refers to private aflatoxin testing laboratories as ''PAC-approved'' because those laboratories are approved by the Committee to perform chemical analyses on domestically-produced peanuts. These PAC-approved laboratories also may be referred to as ''designated'' laboratories. Whether a laboratory is referred to as ''PAC-approved'' or ''designated,'' only those laboratories listed in redesignated paragraph (d)(5)(iv)(A) may conduct aflatoxin content analysis on imported peanuts.

(12) Another Committee recommendation to modify the Agreement regulations provides that shelled peanut lots failing quality requirements because of excessive ''fall through'' may be blanched. Paragraph (e) of the import regulation prescribes the corresponding requirement that imported shelled peanuts failing quality requirements because of excessive damage, minor defects, moisture, or foreign material may be reconditioned by remilling and/or blanching. This rule adds peanut lots failing ''fall through'' requirements to those lots that can be reconditioned by blanching. After blanching, all such lots must to be sampled and certified as meeting minimum ''fall through'' requirements prior to disposition to edible peanut outlets.

This change is made in paragraph (e) of § 999.600 by adding a new second sentence to the introductory paragraph providing that peanuts which fail minimum grade requirements because of excessive ''fall through'' may be blanched. For consistency, the second to last sentence in introductory paragraph (e) also is revised to include minimum ''fall through'' requirements as a condition for human consumption.

(13) A final change to be consistent with Agreement regulations prescribes that shelled peanut lots meeting the minimum grade requirements specified in the Minimum Grade Requirements table, but which fail aflatoxin requirements, may be roasted during the blanching process. After roasting, the peanuts must be sampled and assayed for aflatoxin content, and, if meeting

aflatoxin requirements (15 ppb or less), may be disposed of to human consumption outlets. The lot does not have to be re-inspected for grade quality because the lot will have already met grade requirements. This modification is a relaxation of requirements and is an optional process for importers who intend to roast imported peanuts. It will save time, reduce costs, and reduce possibilities for damage or split kernels.

This process was recommended by the Committee for domestic peanuts because blanched peanuts, after sampling and certification, often are placed back into the blancher to complete the roasting process. This adds costs to the roasting process and can cause additional splits or kernel damage due to the extra handling of the peanuts. Also, roasting enhances the blanching efforts to eliminate aflatoxin, thus improving the wholesomeness of the peanuts.

Inspection service oversight of the blanching process is necessary to maintain positive lot identity. However, the Department believes that the savings involved in blanching and roasting in one step and prevention of additional damage and splits due to excessive handling are benefits that would outweigh the costs of inspection service oversight. Any residual peanuts, excluding skins and hearts, resulting from the roasting process, must be red tagged and disposed of to non-edible peanut outlets, and so reported to AMS. This rule will add a new paragraph (e)(4) in § 999.600. Original paragraph (e)(4) would be redesignated as (e)(5).

Paragraph (f) *Safeguard procedures* of § 999.600 outlines the steps that importers must follow when entering peanuts into U.S. commercial markets. The stamp-and-fax process helps assure that AMS will be notified of all peanut entries. This rule modifies or removes several requirements of the original safeguard procedures and reporting requirements to help streamline the entry process, ease reporting burdens, and provide more time for importers to obtain human consumption certification. The changes were proposed after AMS' review of the peanut importation process during the 1997 and 1998 quota periods. Where applicable, the changes are made with concurrence of the Customs Service.

(14) Under the ''stamp-and-fax'' procedure, importers notify the inspection service of pending peanut shipments by faxing or mailing a copy of the Customs Service entry documentation to the inspection service office that will sample the imported peanut shipment. The first sentence of paragraph (f)(1) provides that such documentation must be sent ''prior to arrival'' of the peanuts at the port-of-entry. However, experience shows that it may not be possible to send a completed stamp-and-fax document to the inspection service ''prior to arrival'' of the shipment at the port-of-entry. While it is in the importer's interest to give the inspection service advance notice of inspection, it is not essential that this be done before arrival of the shipment at a port. Thus, the first sentence of paragraph (f)(1) is changed to read ''Prior to, or upon, arrival* * *.''

The Customs Service will not release imported peanut lots without entry documentation stamped by the inspection service. Further, the inspection service will not sample and inspect peanuts that are not covered in a stamp-and-fax entry document.

(15) This final rule revises paragraph (f)(1) to change the information that was originally required on the stamp-and-fax document. This rule adds the Customs Service entry number(s) for the peanut shipment(s) covered in a stamp-and-fax document. The entry number is basic Customs Service entry information and appears on Customs Form 3461 (Entry/Immediate Deliver) which is commonly used as the stamp-and-fax document. During the 1997 and 1998 quota periods, the inspection service recorded the entry number on the grade certificates, enabling AMS to monitor imported lots and communicate with the Customs Service regarding importers' compliance with program requirements.

Experience of the last two import years shows that different Customs Service forms may be used in the stamp-and-fax process. In most cases, Customs Form 3461 has been used. USDA's Animal and Plant Health Inspection Service (APHIS) Form 368 (Notice of Arrival) also may be used as a stamp-and-fax document. In these cases, the importer or customs broker filing the stamp-and-fax document must add the inland destination and contact number before sending the document to the inspection service.

The original provision specifies that the destination location, including city and street address, be included on the stamp-and-fax form. The street address is not necessary as long as the city and receiving entity is identified. A telephone contact number also must be included. Experience shows that the receiving entities are usually cold storage warehouses.

The previous provision specified that the stamp-and-fax document include the date and time that the peanut shipment will be inspected at the inland destination. However, a date and time for inspection is not always known at the time of entry, and it is not necessary that this information be included on the stamp-and-fax document. The purpose of the stamp-and-fax is to assure that the inspection service is aware of every peanut lot being imported. Arrangements for the time and date of the inspection often are made by the cold storage warehouse after arrival of the imported lot at the inland destination.

Therefore, this rule establishes that the information required on stamp-and-fax documents include: the Customs Service entry number; the container number or other identification of the lot; the volume (weight) of peanuts in each lot; and the location, contact name and number where the lot will be in storage or made available for inspection. Paragraph (f)(1) is changed accordingly.

(16) The ''stamp-and-fax'' process is further modified by removing the fifth sentence in paragraph (f)(1) that requires importers to send a copy of the stamp-and-fax entry document to the Secretary. AMS can obtain information on peanut entries from the inspection service and from the Customs Service on data tapes. That information effectively replaces the need for stamp-and-fax entry documents to be reported by importers to AMS' headquarters office. The change is made in the fifth sentence in paragraph (f)(1) by removing the words ''and send a copy of the document to the Secretary.'' A similar change also is made in the first sentence in paragraph (f)(2) by removing the words ''entry document'' from that sentence. This modification does not change the requirement that importers must file the stamp-and-fax with the inspection service office as provided in paragraph (f)(1).

Another change regarding the stamp-and-fax reporting is made in paragraph (f)(1). The last sentence provides that the importer shall cause a copy of the entry document to accompany the peanut lot and be presented to the inspection service ''at the inland destination.'' The intent of this requirement was to help inspection service offices account for all peanut lots for which those offices have authorized entry by stamp-and-fax. However, the provision could have been interpreted as meaning that all peanut lots must be shipped inland for inspection. This is not the intent of the provision. Peanuts may be inspected and certified for human consumption while at the port-of-entry, free trade zone, or bonded warehouse adjacent to the port of entry. If inspected at the port or free trade zone and certified as

edible, the lot does not have to be seen again by the inspection service and may be transported to its intended destination. Uninspected lots and failing lots which are sent inland for inspection or reconditioning must be accompanied by Customs Service entry documentation relevant to the lots, which must be presented to the inspection service at the time of inland inspection.

The last sentence in paragraph (f)(1), therefore, is modified to provide that the entry documentation be presented at the time of sampling—whether that sampling is at the port of entry or at an inland destination. The last sentence of paragraph (d)(3)(i) also is revised to conform with this clarification.

(17) The import regulation's reporting requirements are specified in paragraph (f)(2) of § 999.600. Importers are required to file with the Secretary entry documents, including all grade and aflatoxin certifications, showing that imported peanut lots meet quality and disposition requirements of the regulation. Certifications filed by importers enable AMS to monitor all imported peanut shipments and ensure compliance with the regulation's quality and disposition requirements. The reporting requirements can be burdensome if, as now happens, large volumes of peanuts are entered simultaneously when a country's peanut import quota is opened.

The inspection service performs all inspections of imported peanuts, and AMS has access to all of those grade certificates. In addition, AMS' Science and Technology Programs' laboratories conduct chemical analysis of imported peanut lots, and, thus, AMS has access to aflatoxin certificates issued by those laboratories. Through memoranda of understanding with these offices, AMS' Marketing Order Administration Branch (MOAB), which administers the import regulation, can obtain copies of grade and aflatoxin certificates issued by the inspection service and the USDA laboratories. Therefore, it is not necessary that importers file inspection service grade certifications and AMS laboratory aflatoxin certifications on lots which meet requirements. Those certifications can be provided to MOAB by the inspection service and laboratories. Filing of aflatoxin certifications provided by PAC-approved private laboratories is addressed below.

Experience shows that if importers do not have to file certifications on peanut lots which meet import requirements, a large portion of the reporting burden would be removed. Importer would continue to be required to report failing lots and disposition of those failing lots. AMS believes such a modification of the reporting requirements will not reduce the effectiveness of the regulation's safeguard procedures or AMS' program oversight, because its compliance efforts focus on failing peanut lots. Therefore, AMS revises paragraph (f)(2) of § 999.600 to provide that importers file with AMS only certificates of imported peanut lots failing quality or aflatoxin requirements.

This rulemaking action updates the kind of information required to be filed by importers, or others on behalf of importers.

Importers who choose to use PAC-approved laboratories for aflatoxin certification must either file those certifications themselves or direct the private laboratory to file the certifications with AMS. Similarly, it is the responsibility of the importer to either file, or direct the filing of, documentation covering such non-edible peanut dispositions. The first sentence of paragraph (f)(2) is revised to require that importers ''shall file, or cause to have filed'' documentation showing disposition of peanut lots which fail to meet quality requirements. The phrase ''cause to have filed'' enables importers to direct the entity to file the documents on behalf of the importer.

This optional reporting procedure reduces importers' direct reporting burdens because they do not have to file the certificates themselves. The cost, if any, of reporting aflatoxin certifications to AMS is included in the cost of testing. Thus, while importers are responsible for the reporting charges, the additional reporting costs should be less than the costs of individual importers filing the certificates themselves. The certifications do not have to be reported individually or on a scheduled basis, but do have to be filed by the reporting deadline relevant to each imported lot. A laboratory may file certificates from many importers in one mailing.

As noted above, this rulemaking continues importers' responsibility for reporting, or causing the reporting of, final disposition of all failing peanut lots. Proper disposition of a failing peanut lot includes: (1) Edible certification through an appeal inspection; (2) edible certification after reconditioning; (3) disposition to a non-edible peanut outlet such as crushing, animal feed, or seed use; (4) dumping in a landfill or otherwise destroying the peanuts; or (5) re-exportation to another country.

The proposed rule recommended that paragraph (f)(2) be modified to require ''source'' documents as proof of non-edible disposition. As discussed above in the Comments Received section, two commenters pointed out: (1) The difficulty of obtaining source documents from entities not directly regulated by the import regulation, and (2) that the Agreement regulation does not require source documents, but accepts bills-of-lading from Committee-approved blanchers and remillers as proof of non-edible disposition. After reviewing the reporting requirements under the Agreement, AMS believes the comments have merit. Thus, entities such as remillers, blanchers, and bonded warehouses may file, on behalf of importers, bills-of-lading certifying that failing quality peanuts were shipped to a non-edible peanut outlet. Documentation filed showing disposition to animal feed must include, as required by paragraph (e)(2)(ii), an aflatoxin certificate showing that the peanuts do not exceed 300 ppb aflatoxin content. Failing lots and commingled residuals that are re-exported must be documented with a completed Customs Service form, specific to the peanuts being shipped, verifying exportation from the U.S.

Thus, the third sentence of proposed new paragraph (f)(2) is modified in this final rule to read as follows: ''Proof of non-edible disposition may include bills-of-lading, transfer certificates, and other documentation showing shipment from the importer, blancher, remiller, warehouse, or other entity, to crushing, feed or seed use, burying, or other non-edible disposition. Such documentation must include the weight of peanuts being disposed and the name and telephone number of the disposing entity. Proof of export must include U.S. Customs Service documentation showing exportation from the United States.''

Further, some importers have requested appeal analyses on failing peanut lots. An appeal inspection involves resampling and reinspection by the inspection service and/or aflatoxin testing laboratory. If the failing lot is determined to meet requirements upon an appeal analysis, the importer must file both the initial failing certificate(s) and the appeal certificate(s) showing the same peanut lot ultimately was certified as meeting quality requirements on appeal.

Experience with the 1997 and 1998 imports also shows that most failing lots were reconditioned by blanching. After reconditioning, the lots are reinspected and, in most cases, certified for edible consumption. In reporting reconditioning of a failing peanut lot, the importer must account for pickouts

and other poor quality kernels that are removed from the lot during the reconditioning process. For example, if a 40,000 pound container of peanuts fails grade requirements, the lot may be blanched. If the resulting lot, weighing 30,000 pounds, is certified as edible, the importer must file: (1) The first failing grade certificate; (2) the first passing aflatoxin certificate (''negative'' to aflatoxin); (3) the second passing grade certificate; (4) the second passing aflatoxin certificate; and (5) proof of shipment (such as a bill-of-lading) of the non-edible residuals to an oilmill or to a port facility (with Customs documentation showing actual exportation).

The volume of residual peanuts may not exactly equal the difference between the two weights because of ''disappearance'' during the reconditioning and reinspection process. Such disappearance can include bag weight, skins, moisture from the blanching, other loss of kernels, and differences in weighing scales, which, to the extent practical, must be documented.

Fees charged for disposition of failing peanuts must be borne by the importer.

AMS has found that grade and aflatoxin certificates are the primary documentation for monitoring edible and non-edible disposition of imported peanuts. Tying a disposition back to an original imported peanut lot is difficult without reference to grade and aflatoxin certificate numbers. Thus, for compliance purposes, it is necessary that all reporting of non-edible disposition include the grade and aflatoxin certificate numbers of the original failing lot(s).

Residuals from the remilling or blanching of several imported peanut lots belonging to the same importer may be commingled into a larger, residual lot. Proof of disposition of a commingled residual lot must include: (1) The name and telephone number of the disposition outlet; (2) lot numbers from which the residuals were removed; and (3) the total weight of the disposed residual lot. The report must be sufficient to account for all of the residual peanuts and identify the lots from which the residuals were taken. Residuals from imported peanut lots cannot be commingled with domestically-produced residual peanuts because of the separate compliance and recordkeeping responsibilities for domestic peanuts (to the Committee) and imported peanuts (to AMS). Certification of PLI issued by the inspection service may be used to verify commingling of multiple residual peanut lots.

During the 1997 and 1998 quotas, some customs brokers, warehouse operators, and blanchers failed to identify the importer of record when requesting inspections. If the warehouse or blancher is shown as the applicant for the inspection and the importer's name withheld, AMS has difficulty matching up certificates and verifying that the importer has satisfied reporting requirements. For AMS recordkeeping purposes, the applicant requesting inspection must provide the name of the importer to the inspection service. A provision to this effect is added to the first sentence of paragraph (f)(2).

Because of the extent of these revisions, the first half of paragraph (f)(2) is revised. Crushing, feed, seed, or burying are added as examples of non-edible disposition outlets. The address to which disposition documentation must be filed remains unchanged. Finally, original paragraph (d)(4)(v)(B), which provided that importers file aflatoxin certificates ''regardless of the test result'' is removed to conform with reduced reporting of only failing lots.

(18) Paragraph (f)(3) of the peanut import regulation establishes the period for importers to obtain inspection and certification of their imported peanut lots and report disposition to AMS. The original reporting period was 23 days after Customs Service release of the peanut lot. However, based on the experience of the 1997 and 1998 import quotas, the 23-day period does not provide enough time for importers to meet requirements for all lots and report disposition to AMS. Indeed, the 23-day reporting period was extended for the 1997 reports only in a separate rulemaking (62 FR 50243, September 25, 1997). Therefore, original paragraph (f)(3) and the reporting period is completely revised.

Because of the high demand for foreign-produced peanuts, the 1997 Argentine and ''other country'' quotas were filled on the day of opening. Among other things, this caused a flood of imported peanuts into clearance channels at the same time. For the most part, the inspection service and aflatoxin labs were able to provide timely sampling and inspection of imported peanuts. However, some importers encountered problems obtaining wharfage and storage space in bonded warehouses and other delays in other clearance processes. Large volume importers had particular difficulty coordinating the paperwork required by different Federal government offices, the quality inspections, and needed reconditioning to meet requirements of the import regulation, 7 CFR 999.600.

Therefore, the period for reporting compliance with the import regulation is extended in this rulemaking. An extended period helps alleviate problems encountered with the large numbers of lots entered under Argentine and ''other country'' quotas on April 1 each year. The extended period also is helpful for imports of Mexican peanuts, some of which are farmers stock peanuts needing the extra steps of shelling, sorting, and sizing before certification for edible use.

The reporting period is established in this rule as 180 days from the date of release of a lot by the Customs Service. Lengthening the reporting period is accomplished by providing that all Customs Service releases of peanuts be designated as ''conditional'' releases. The 180-day period is established as the conditional release period for Customs Service purposes.

A peanut lot which is inspected and certified as edible in advance of a quota's opening day may be conditionally released and subject to the 180-day conditional release/reporting period. However, importers are able to dispose of those peanuts after receipt of the required edible certifications and after conditional release of the lots by the Customs Service.

Uninspected peanut lots may be conditionally released under bond, provided that, within 180 days, those peanuts be inspected and reported to AMS as meeting requirements of the import regulation.

Inspected peanut lots that fail to meet quality requirements may be conditionally released for reconditioning and reinspection. Reconditioning and reinspection must be completed and reported to AMS within the 180-day conditional release period. Disposition of the non-edible, residual peanuts or pick-outs from reconditioning processes also must be reported within the 180-day period. Positive lot identification must be maintained on these peanuts.

If AMS finds that, after the 180-day conditional release period expires, an uninspected or failing peanut lot has not been reported as meeting import requirements, AMS will request the Customs Service to issue a Notice of Redelivery to the importer. Subsequent to that request, the Customs Service has 30 days to issue, under the terms of the basic importation bond, a valid demand for redelivery. Upon receiving the Notice of Redelivery, the importer has 30 days to redeliver the unreported or failing peanuts to the Customs Service.

Original paragraph (f)(3) provided for a 60-day extension of the redelivery demand period to enable an importer

additional time to meet a redelivery demand. That provision is removed from paragraph (f)(3) and inserted in new paragraph (f)(5). The preamble in the proposed rule incorrectly stated that extension was removed, rather than redesignated to another paragraph. A conforming change is made by removing the second sentence in paragraph (f)(4).

Original paragraph (f)(4) also is revised to restate the redelivery demand process. The paragraph also continues to include the consequences of an importer's failure to comply with import regulation, i.e., assessment of liquidated damages equal to the value of the peanuts involved, under the terms of the Basic Importation and Entry Bond. Further, failure to fully comply with quality and handling requirements or failure to notify the AMS of disposition of uninspected or failing imported peanuts, as required under this section, may result in a compliance investigation by AMS. Finally, revised paragraph (f)(4) includes the proviso that falsification of reports submitted to AMS also is a violation of Federal law and is punishable by fine or imprisonment, or both.

(19) AMS believes that the need for extension of the 180-day conditional release and reporting period is significantly reduced because of the longer reporting period proposed in this rulemaking. However, new paragraph (f)(5) provides for extension of the reporting period, should an importer be unable to dispose of a particular peanut lot within 180 days. This rule establishes an extension of an additional 60 days, giving importers a total of 240 days to meet requirements of the import regulation.

Unusual circumstances could necessitate an extended delay in disposition of an imported peanut lot. There have been a few instances over the last two years where failing lots were set aside and not reconditioned until months after the initial inspections. Disposition of farmers stock peanuts which require shelling and final outgoing inspection also may require an extended period of time to complete shelling and final inspections. In such instances, the importers needed an extension of the reporting period. Under this proposal, the length of the extension, up to 60 days, must be specified in the extension request and be made by the importer in writing by the end of the conditional release period. The extension request also must specify the lot's Customs Service entry number, PLI designation, volume or weight, and current location. Requests for extension are made to AMS at the address provided in paragraph (f)(2).

(20) This action adds a new paragraph (f)(6) to clarify a procedural question that arose during the 1997 quota period. Not all peanut lots that arrive in the U.S. are entered for consumption. Because of the expected overfill of the Argentine quota, some importers placed peanuts in bonded storage and did not file consumption entry documents (including a stamp-and-fax) until after quota allotments were determined by the Customs Service. The peanuts in excess of quota had to be either exported to another country, held in bonded storage for the next year's quota, or entered under tariff charges. Peanuts that are held in bonded storage and subsequently exported from the U.S. without a stamp-and-fax communication, need not be reported to the inspection service or to AMS. However, if a peanut lot is included in a stamp-and-fax document, but is subsequently exported without being entered by the Customs Service, the importer must notify the inspection service of the export decision and provide proof of export. The inspection service must be able to account for all lots reported on stamp-and-faxes.

With the addition of new paragraphs (f)(5) and (f)(6), original paragraphs (f)(5) and (f)(6) are redesignated as paragraphs (f)(7) and (f)(8), respectively, and references to those paragraphs are changed accordingly.

In addition, minor additions are made in paragraphs (f)(7) and (8) to clarify the original provisions of those paragraphs. In paragraph (f)(7), the words ''and aflatoxin'' are inserted between ''inspection certificate(s)'' to clarify that the Secretary may reject a current aflatoxin certificate as well as grade certificate. The word ''may'' also is removed from the sentence to clarify the authority of the Secretary to require reinspections of suspect peanut lots. In paragraph (f)(8), the second sentence is changed by adding the words ''the storage'' before the word location to clarify the requirement that importers advise AMS of the storage location of peanuts held in bonded storage for longer than one month prior to quota opening.

(21) A clarification is made to paragraph (g)(1) *Additional requirements.* The second sentence stated that all peanuts presented for entry for human consumption must be certified as meeting import requirements. The phrase ''presented for entry'' can be misleading in that, as discussed above, many peanuts presented for entry are not subsequently imported. This rule changes the sentence by replacing the phrase ''presented for entry'' with the term ''intended for human consumption.'' This clarifies the purpose for importation. Also, the phrase ''prior to such disposition'' is added to the end of the sentence to further state that all peanuts imported for edible use meet those requirements prior to movement to the receiver or buyer.

(22) Finally, several minor changes are made to paragraph (g)(6) to clarify and simplify provisions regarding costs incurred in meeting the requirements of the import regulation. The changes include clarification that the inspection service and aflatoxin testing laboratories bill ''applicants'' making the request for inspection and chemical analysis, not only the importer, as originally stated. Applicants include customs brokers, storage warehouses, and other entities acting of behalf of importers. The list of the types of chargeable services is modified for clarity and simplicity. PLI certifications replace ''certifications of lot identification'' to be in conformance with Recommendation 8, above.

The Department makes these amendments and modifications to the peanut import regulation, § 999.600 to update and streamline the provisions of that regulation.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements contained in this final rule were submitted to the Office of Management and Budget (OMB) for approval. The information collection requirements in the original peanut import regulation were approved by OMB on September 3, 1996, and assigned OMB number 0581–0176.

This paperwork burden analysis applies to only AMS' peanut import regulation burden in § 999.600, and does not include or supersede other reporting requirements for imported peanuts that may be established by APHIS, the Food and Drug Administration (FDA), the Customs Service, or other agencies.

The original burden statement for the peanut import regulation was developed and approved before the regulation was put into effect. The reporting burden is based on importers, or others acting on behalf of importers, filing copies of documents necessary to show compliance with program requirements. There are no forms to be completed and filed. The import program's original reporting and recordkeeping estimates were not broken down in OMB's 0581–0176 burden statement—making it difficult to apply comparisons for the individual changes proposed in this regulation. Also, because the duty free

quota has increased by approximately 21 percent since the original burden statement was approved, savings calculated in this rule are based on 1999 quota volumes.

The proposed rule incorrectly addressed the average time needed to file the different documents required under the import regulation. Stamp-and-fax documents are filed separately and, thus, are estimated to take 5 minutes for each submission. The average reporting time for filing individual certificates is estimated in this final rule as 3.5 minutes because importers may accumulate relevant documents and submit them at one time. The response time, therefore, is estimated 3.5 minutes for each response. These estimates are used in the discussions of the recommended changes immediately below.

The original reporting burden estimated 25 respondents filing 5,000 responses, for a total of 300 burden hours—an average of 12 reporting hours per importer. The original recordkeeping burden was estimated at 25 respondents and a total of 125 burden recordkeeping hours—an average of 5 recordkeeping hours per importer.

This final rule revises the original information collection burden based on: (1) Experience of the 1997 and 1998 peanut quota periods; (2) a two-year increase in peanut quota volume from 94.8 million to 115.4 million pounds for 1999, as established by trade agreements; (3) an estimated 2,650 lots entered (based on lot sizes of 40,000 pounds for most lots and 200,000 pounds for a small number of lots; (4) reduced information collection requirements; (5) reduced response time from 5 minutes per response to 3.5 minutes; (6) reduced number of respondents (importers) from 25 to 15; and (7) generally good peanut quality, with an estimated 10 percent of the lots failing initial quality requirements.

Reporting burden: The following changes reduce the AMS paperwork reporting burden on peanut importers.

Recommendation 16: This modification removes from paragraph (f)(1) the requirement that importers must send copies of each stamp-and-fax document to AMS headquarters. The intent of the original requirement was to ensure AMS headquarters has knowledge of all peanut imports for monitoring and compliance purposes. However, this change requires that the inspection service and aflatoxin testing laboratories provide copies of all inspection certificates issued on imported peanuts (Recommendation 17). In addition, AMS receives periodic database printouts of all peanut entries from the Customs Service. Together, these reports are sufficient documentation for AMS headquarters' purposes. Therefore, it is not necessary that importers send copies of their stamp-and-fax documents to AMS headquarters.

Savings: The burden of filing stamp-and-fax documents with AMS' headquarters is completely eliminated by this final rule. The original burden for reporting stamp-and-fax documents was factored into the total program burden of 5,000 hours. Based on the 1999 quota of 115.4 million pounds, projected entries of 2,650 lots, and 5 containers listed on each stamp-and-fax document, approximately 530 stamp-and-fax documents will be filed. This number of responses will be saved because AMS headquarters does not have to be notified. At 5 minutes per filing, the estimated burden for reporting stamp-and-fax documents in 1999 will total 44 hours.

Recommendation 17: This rule reduces the number of inspection certificates which importers must report to AMS. Previously, importers filed copies of both passing and failing grade and aflatoxin certificates issued on all imported peanut lots. Those certificates are issued by the inspection service and by AMS and private laboratories. The certificates can be made available to AMS by those entities, thus relieving importers of a significant direct reporting burden.

Because AMS' compliance efforts focus on failing lots, this rule establishes that importers be required to file only certificates covering failing peanut lots. AMS receives copies of passing certificates from the inspection service and laboratories as a check on all lots entered. Approximately 2,650 peanut lots are expected to be imported under 1999 peanut quotas. For burden-reporting purposes, this rule estimates that 10 percent of the imported lots will fail one or both inspections. Thus, approximately 265 lots can be expected to fail quality requirements and will have to be either reconditioned to meet requirements, disposed of to non-edible peanut outlets, or re-exported. The other 90 percent of the lots (2,385 lots) can be expected to meet quality requirements, and will not have to be reported by the importers.

Recommendation 17 makes two clarifications. First, the name of the importer will be entered on filed inspection certificates, which are completed by the inspection service. Often the business requesting the inspection is not the importer, but another entity acting on behalf of the importer. This rule clarifies that in such cases, the importer's identity should be placed on the certificate. This does not increase the reporting burden because the name is entered by the inspector, not the importer. The second proposed recommendation would have required that ''source'' documents be used when reporting disposition of failing lots. However, based on comments received and further review by AMS, the recommendation has been withdrawn. The new, amended provision specifies the same requirement as the original regulation, i.e., bills-of-lading and other transport certificates to be submitted by the importer or contractors of the importer. The provision requires that contact information of the disposing entity be specified in the documents filed. An adjustment in the proposed burden is not needed because the use of source documents would not have increased the volume of paperwork required to be reported. However, removal of the source document requirement may ease the difficulty importers might have had in obtaining ''source'' documents.

Savings: If importers are not required to file certificates on lots meeting program requirements, the savings in 1999 will be approximately 4,770 responses (2,385 lots, times 2 certificates per lot) and 398 hours saved (4,770 times 5 minutes per response). The new reporting burden under Recommendation 17 is an estimated 4 responses for each of the 265 imported lots failing requirements, or 1,060 total responses. At 3.5 minutes per filing, the total reporting burden for filing disposition of failing lots only in 1999 is projected to be 62 hours. The new average will be 70 responses and 4 hours per importer. If this regulation was not effectuated, the 1999 reporting burden on importers would have been approximately 5,830 responses filed, and, based on 5 minute reporting time per response, roughly 485 burden hours. Thus, Recommendation 17 results in an estimated savings of 4,770 responses and 423 burden hours in 1999.

Recommendation 18: A small portion of the 5,000 hours under the original reporting burden accounts for importers filing requests for extension of the reporting period. Recommendation 18 extends the reporting period from 23 days after entry to 180 days after conditional release by the Customs Service. The 23-day period proved to be too short for reporting most imported lots, forcing importers to request extensions on nearly all lots imported during 1997 and 1998. Extension of the reporting period to 180 days alleviates the need to file requests for extension

for almost all imported peanut lots. In addition, extension of the reporting period also enables importers to collect certificates as the lots are certified, and file all certificates on failing lots at one time, thus saving the burden of reporting lots individually. After deadline extensions were granted by AMS during the 1997 and 1998 quota periods, importers filed outstanding reports in groups.

Savings: Extending the reporting period from 23 days to 180 days means importers do not have to request as many extensions and they are able to combine the failing lot certificates into fewer reports. Savings from the reduction in the reporting burden is factored into the estimate of Recommendation 17.

Recommendations 10, 15, and 20 clarify reporting requirements but do not change the burden. Recommendation 10 clarifies that importers may designate other entities (aflatoxin testing laboratories, customs import brokers, warehouses, blanchers, crushers, etc.) to file certificates and reports on their behalf. This reporting is done as a part of the business contract between the importer and the service-provider at little or no cost to the importer, thus relieving the importer of the reporting burden. Recommendation 15 clarifies the information that is needed on stamp-and-fax documents. This change in information does not increase the time needed to complete the stamp-and-fax document or the reporting burden. Recommendation 20 clarifies that if peanuts are not covered in a stamp-and-fax document and are not inspected—but are subsequently exported—those peanuts should not be reported.

Total average savings, reporting burden: The modifications in this final rule represent an annual savings of approximately 5,300 responses and 467 reporting hours.

The savings is only a few minutes for small importers who import a few containers of peanuts. A large importer of 8 million pounds of peanuts—200 lots with 20 lots failing requirements—has the following reporting burden in 1999 (vs. the original burden estimate in parentheses): 40 (80) stamp-and-fax notices; 0 (360) certificates on passing lots; 80 (80) certificates on failing lots; 0 (40) deadline extensions; total 120 (560) reports filed; 8 (46.6) hours reporting burden. These are rough estimates for general comparison purposes only.

Recordkeeping burden: In addition to the reporting requirements, Section 999.600 requires that importers retain copies of certifications and entry documentation for not less than two years after the calendar year of acquisition. Customs Service document retention requirements are five years. While importers no longer file grade and aflatoxin certificates on passing lots, they must store that information for AMS and the Customs Service. The original recordkeeping burden totals 125 hours, based on 25 respondents retaining records—an average of 5 recordkeeping hours per importer. The revised recordkeeping burden, based on the 21 percent increase in the quota volume is 151 hours. With only 15 record keepers, the average recordkeeping hours per importer is 10 hours.

Cumulative new burden: This rulemaking establishes a new total annual reporting and recordkeeping burden for OMB number 0581–0176 of 1,590 responses and 257 hours. This compares to the original burden of 5,000 responses and 425 hours. The new burden averages 106 annual responses and 17 burden hours for each peanut importer. The burden hours per importer is increased because the estimated number of importers is sharply reduced from the original estimate.

Comments to this amended Paperwork Reduction Act burden were requested in the proposed rule (63 FR 46191, August 31, 1998). Comments were to be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget and to AMS. The comment period was 60 days, ending October 30, 1998. Two comments were received on one proposed reporting requirement change (''source'' documents) and, as previously discussed, that proposed change has not been made to section 999.600. That one reporting requirement remains as previously approved. This final rule does not alter the number of responses or reporting burden hours from those in the proposed rule. The new reporting and recordkeeping burden for OMB No. 0581–176 has been submitted to OMB and has been approved under that number.

Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the AMS has considered the economic impact of this peanut import regulation on small entities and whether the proposed changes to the regulation disproportionately or unfairly effect small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

An initial regulatory flexibility analysis was prepared and published with the proposed rule (63 FR 46191, August 31, 1998). A comment period of 30 days was provided for comments to the proposal and the initial regulatory flexibility analysis. No comments were received that made specific reference to the analysis or questioned the impact of the proposed changes on small business entities. Accordingly, AMS has prepared the following final regulatory flexibility analysis.

The import regulation is required by law—subparagraph (f)(2) of Section 108B of the Agricultural Act of 1949, as amended, and the Federal Agriculture Improvement and Reform Act of 1996. Subparagraph (f)(2) mandates that the Secretary shall require that ''all peanuts in the domestic and export marketplace fully comply with quality standards under Marketing Agreement 146.'' Handling requirements similar to those established under the Agreement also are established in the import regulation, to the extent necessary to assure comparability of quality standards. The import regulation was issued June 11, 1996 (61 FR 31306, June 19, 1996) with the intent to minimize the regulatory burden on importers. An amendment was issued December 31, 1996, (62 FR 1269, January 9, 1997), to conform to changes in the Agreement regulations and to add necessary storage reporting requirements.

Experience of the 1997 and 1998 peanut quota periods shows that approximately 15 business entities imported peanuts and were subject to this import regulation. Importers appeared to cover a broad range of business entities, including fresh and processed food handlers, and both large and small commodity brokers who buy agricultural products on behalf of others. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. Less than one third of the importers appear to be small business entities. The majority of peanut importers are large business entities under this definition. AMS is not aware of any peanut producers (farmers) who imported peanuts during these quota years.

The 1997 and 1998 peanut quota years were the first two years that imported peanuts have been regulated under 7 CFR 999.600. Analysis of the regulatory impact of the regulation is

complicated by several factors. Peanuts are imported from at least half a dozen countries and can be imported in inshell, shelled, or cleaned-inshell forms. This makes it difficult to compare the costs of importation with purchase price of the product. The costs of importation can vary greatly, with significant cost factors being transportation distance, shipment method, wharf fees, demurrage costs, storage charges, and the quality of the peanuts imported.

The amendments to the import regulation effectuated by this rulemaking action were recommended for the following reasons. Five changes conform with changing Agreement requirements (relaxing tolerances for unshelled and damaged kernels; removing grade requirements for certain peanut categories: allowing lots with excessive fall-through peanuts to be blanched; and allowing failing lots to be roasted during blanching without requiring grade reinspection). Seventeen changes recommended by AMS update, clarify, and reduce the importation procedures and reporting requirements specified in the regulation. Of the 17 changes, three relax reporting requirements by removing nearly 90 percent of the documents that must be filed and extending the reporting period to ease the time pressures for those documents that must be filed. This final rule improves oversight of imported peanut lots, increases quality assurance, and corrects misunderstandings of importation procedures.

All of the changes in this rule are intended to apply uniformly to both large and small importers. None are intended to, or are expected to, disproportionately affect small importers. The changes should have the following regulatory impact on importers.

Recommendation 1 makes two changes in definitions. The first change removes reference to an out-of-date aflatoxin level for non-edible peanuts in paragraph (a)(10) defining *Negative aflatoxin content*. The level of 25 ppb should have been removed in previous rulemaking. No imported peanuts have been graded against this old quality level. Recommendation 1 also removes the word ''Peanuts'' from the title of Marketing Agreement No. 146 as specified in paragraph (a)(15) defining *PAC-approved laboratories*. The term ''Peanuts'' is not a part of the title of the Agreement.

Recommendation 2 changes the definition of *Conditionally released* in paragraph (a)(16) by removing the words ''before final release'' and adding reference to reconditioning. The ''final release'' term does not conform with Customs Service terminology. This change does not alter the intent or meaning of the definition. There is no regulatory impact on importers.

Also, the phrase ''and, if necessary, reconditioning.'' is removed from the definition, based on comments received. The effect is to require that imported lots be inspected and PLI prior to reconditioning. AMS is aware of only a few instances during 1997 and 1998 (over 4,000 lots imported) when an importer requested reconditioning before knowing the results of grade and aflatoxin inspections. While, in these very few instances, this change requires inspection of peanuts when the importer may not want inspection, it is a safeguard measure that helps assure positive lot identity for AMS and Customs Service purposes, and improves AMS monitoring ability. It also is in the best interest of the importer.

Recommendation 3 removes a redundant sentence in paragraph (b)(1) relating to use of Segregation 1 peanuts for human consumption only. This reference appears twice in the same paragraph.

Recommendations 4 and 6 are inter-related and make the import regulation consistent with changes in handling and quality requirements to the Agreement. These changes simplify both the import and Agreement regulations. Recommendation 6 removes Table 2, Superior Quality Requirements—Peanuts for Human Consumption from paragraph (c)(1)(ii). Previously, peanut lots meeting the higher quality requirements of Table 2 could be shipped to buyers prior to receiving aflatoxin analyses on the lots. Recommendation 4 is a conforming change that has the effect of requiring importers to receive aflatoxin analyses on all lots prior to forwarding the peanuts to buyers. While these changes can represent a tightening of handling requirements, the effect on importers is minimal. Under limited circumstances, the provisions may reduce, by a few days, the storage time for such high quality peanuts. AMS does not have information on the number of imported lots that would have been affected by the changes had they been in effect for the last two quota seasons. AMS also does not have financial data on storage costs and has no information on whether those costs are applied on a daily or weekly basis. However, in conversations between AMS and importers and customs brokers during 1997 and 1998, importers did not indicate that they shipped superior quality lots without waiting for aflatoxin certification. Also, importers did not contact AMS about the timeliness of aflatoxin certifications. Given overnight mail and facsimile services, aflatoxin analyses are routinely reported within two days. Finally, importers who arranged for arrival, inspection, and bonded storage prior to quota opening had quality and aflatoxin certifications ready when the peanuts were released by the Customs Service. Thus, delays and any regulatory impact due to these changes are expected to be negligible.

Not all categories of peanuts are removed from Table 2. Three ''with split'' categories of peanuts are moved from Table 2 to Table 1 to retain the small marketing niche in the domestic market for lots with high percentages of split kernels. This change was made to the Agreement regulations in 1998 and is included in this regulation to conform with that change. Any impact on importers will be positive as it will allow lots with higher split kernel content to continue to be imported. AMS does not maintain data on the number of peanut lots that were imported under the ''with splits'' categories. Data on the last two years imported peanut lots cannot be used to reliably indicate quality of future shipments or the impact of this relaxation.

Recommendation 5 relaxes tolerances in Table 1 for ''unshelled and damaged kernels by one half of one percent in split lots. The change is made to be consistent with a change already made to the Agreement regulations. It reduces the number of lots that must be reconditioned to meet edible quality requirements. Reconditioning a lot to remove excessive damaged kernels can significantly increase costs by adding additional transportation costs, remilling or blanching charges, and additional inspection fees. Data on the last two years' imported peanut lots cannot be used to reliably indicate the impact on future shipments because the quality of imports varies significantly from year to year and country to country.

Recommendation 7 sets the maximum limit on the volume of farmers stock peanuts that may comprise one lot. Paragraph (d)(3)(ii) is modified. The 24,000 pound volume limit in the proposed rule was based on the size of dryer wagons used to transport domestic farmers stock peanuts. The proposed rule's RFA incorrectly stated that the 24,000 pound limit approximates the volume of farmers stock peanuts transported in semi-trailer trucks. This is not correct. Based on comments received from an importer, and after review, AMS is amending the proposal

by increasing the maximum lot size for imported farmers stock peanuts to 50,000 pounds. This volume more accurately reflects the weight of farmers stock peanuts in standard sized semi-trailer trucks. The inspection service adjusts incoming inspection probe patters when collecting samples from the larger sized trucks. Only a small percentage of imported peanuts were in farmers stock form during 1997 and 1998 and all were within this maximum lot size. The impact of Recommendation 7, as now modified, would be positive for peanut importers.

Recommendation 8 adds new paragraph (d)(4) to strengthen lot identification requirements for imported peanuts. In some situations, the proposed modified positive lot identification procedures could take additional warehouse personnel and space, as well as inspection service time. However, warehouse labor is needed to lay out all bags for sampling, so costs in addition to those normally charged will not be significant. Additional inspection time will vary from a few minutes to wrap PLI tape around containers or stacked bags to 30 minutes or more to reassemble bags on pallets and shrink-wrapping pallets or stenciling individual bags with spray paint. The PLI requirements may increase costs for some, but not all, imported lots. Inspection service sampling and grading costs currently are $43 an hour. Inspections generally take from one to three hours, including travel time, to and from the inspection. Any increased costs to importers will be proportionate to the number of lots inspected and is not expected to unfairly affect small importers.

The modified PLI methods make the import regulation more consistent with domestic program PLI requirements, and is consistent with the intent of the Act. Importers, as well as domestic peanut producers, handlers and manufacturers benefit from quality assurances and the integrity of the product—due, in large part, to enforced PLI procedures. The benefits of quality assurance and product integrity far outweigh the small increased costs that the modified PLI methods may entail.

Recommendation 9 removes a redundant sentence in paragraph (d)(4)(iii) which provided that laboratories provide aflatoxin assay results to importers. This reference is repeated in paragraph (d)(4)(v). There is no regulatory impact from this change.

Recommendation 10 makes minor changes in three paragraphs regarding the mandatory nature of aflatoxin testing and reporting test results. The regulation clearly states throughout that chemical analysis is required on imported peanuts. Paragraph (d)(4)(iv)(A) clarifies that importers ''shall,'' rather than ''should,'' contact a laboratory to arrange for chemical testing. Also under Recommendation 10, the clarification that laboratories can be designated by the importer to report test results to AMS is moved from paragraph (d)(4)(v)(B) to paragraph (d)(5)(v) for better placement of that instruction. These changes identify an optional reporting procedure and have no regulatory impact on importers.

Recommendation 11 amends redesignated paragraph (d)(5)(iv)(A) by updating the list of aflatoxin testing laboratories certified to conduct chemical analyses on imported peanuts. There is no regulatory impact.

Recommendation 12 adds a new sentence to introductory paragraph (e) to provide a blanching option for shelled peanuts failing quality requirements because of excessive ''fall through.'' The change is consistent with an amendment of the Agreement regulations. The change represents a relaxation in imported requirements by providing more opportunities for reconditioning certain failing peanut lots. Reconditioned offers the possibility of increasing the per ton value of the lot from approximately $150 for non-edible use to over $500 for edible peanuts. AMS does not have data on the possible positive impact had this relaxation been in effect under previous quotas. The future impact will be relative to the quality of imported peanuts—which is not possible to reliably predict.

Recommendation 13 also relaxes requirements by adding a new paragraph (e)(4), pursuant to the same change in Agreement regulations. The modification allows lots meeting grade, but failing aflatoxin requirements to be blanched until roasted and then reinspected only for aflatoxin content. The impact of this relaxation can be significant if the importer has many such failing lots which the buyer wants roasted. Savings are accrued because the peanuts do not have to be removed from the blanching process for inspection and then returned to the blanching process for the remaining portion of the roasting process. The original grade certificate is recognized and the only additional inspection charges will be for sampling and aflatoxin analyses. AMS does not have data on the actual costs that could be saved in this process and cannot estimate the number of imported peanuts that may be affected by it in the future.

Recommendations 14, 15, and 16 relax requirements relating to the stamp-and-fax entry process in paragraph (f)(1). Recommendation 14 removes the terms which specify that the stamp-and-fax document be filed ''prior to arrival'' at the port-of-entry. Experience shows that importers may not have all of the needed information until after arrival of the peanuts. Recommendation 15 amends paragraph (f)(1) by reducing slightly, the information required on stamp-and-fax documents. Information on subsequent inspections of the arriving peanuts is not necessary for the purposes of the stamp-and-fax. One needed piece of information, the Customs Service entry number applicable to the lot, is added. In total, these changes reduce the reporting burden by a few words. The needed information was included on the stamp-and-fax documents during 1997 and 1998, but was not so specified as part of the entry information in original paragraph (f)(1). Recommendation 16 removes the requirement in paragraph (f)(1) that a copy of the stamp-and-fax document be forwarded to AMS headquarters. This reduces one reporting requirement for importers. These three relaxations make the entry procedure consistent with the reporting needs of AMS. The regulatory impact is minimal but does reduce requirements on importers.

Recommendation 17 reduces the number of lots that have to be reported by requiring that only certificates on failing lots be filed by importers. If imported peanut quality is the same in 1999 as the average in 1997 and 1998, roughly 90 percent of the lots should not have to be reported to AMS headquarters. This should save an estimated 398 reporting hours. The revision is in paragraph (f)(2).

Recommendation 18 extends the reporting period specified in paragraph (f)(3) from 23 days after entry to 180 days after conditional release by the Customs Service. The extended reporting period allows importers more time to make good business decisions regarding imported lots, particularly failing lots that must be either reconditioned, sold at substantially lower costs, or re-exported. Also, with an extended reporting period, importers should not have to request extensions of reporting periods and could file all failing certifications and dispositions at one time. This should save the time of filing individual reports as each lot is certified, disposed of, or re-exported.

Recommendation 19 provides for up to a 60-day extension of the proposed 180-day reporting period. There is no time limit on domestic peanut disposition. However, because of Customs Service required liquidation of entry documentation, there must be

some time limit for importers to obtain clearances on failing lots and report to AMS. A total 240-day reporting period represents a compromise between the open-ended domestic requirements and Customs Service liquidation schedules. The impact of this requirement will be minimal, as continued storage costs or successive reconditioning attempts eventually reduce profit margins and force business decisions on lots pending eight months after conditional entry. A new paragraph (f)(5) is added.

Recommendations 20, 21, and 22 make minor changes that will have no regulatory impact on importers. Recommendation 20 clarifies that if a container or shipment is re-exported without conditional entry by the Custom Service, it does not have to be reported to AMS and inspected. Such situations were not foreseen in the original import regulation and are included for clarity in new paragraph (f)(6) in this regulation. Recommendation 21 makes a minor wording change in paragraph (g)(1) regarding peanuts that are ''intended'' to be entered but are not entered. Recommendation 22 clarifies that the entities billed for inspections are those requesting inspections. Customs house brokers and storage warehouses often request inspections, and are the entities billed for services provided. However, costs of the inspections are borne by the importer. These three recommendations clarify original provisions and do not change the regulatory aspects of the rule or the reporting burden already authorized by OMB.

The changes established in this final rule should result in an overall reduction in the information reporting burden of the peanut import regulation, currently assigned as OMB number 0581–0176. The most significant reduction in the reporting burden provides that importers file copies of grade and aflatoxin certificates only on failing lots, rather than all lots (Recommendation 17). Using the quality of 1997 and 1998 imported peanuts as a guide, this proposal should reduce that reporting requirement by as much as 90 percent. The recordkeeping requirement is increased by an estimated 21 percent because the 1999 duty-free tariff quota is 21 percent higher than the 1997 quota on which the original recordkeeping burden was based. Thus, this final rule establishes an annual reporting and recordkeeping burden of 1,590 responses and 257 hours. This is a reduction from the original burden of 5,000 responses and 425 hours.

Finally, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule. Besides meeting AMS import quality requirements, clearance of each imported peanut lot also must be obtained from the Customs Service, FDA, and APHIS. Program requirements of those entities do not overlap the quality requirements of this regulation. AMS has consulted with the Customs Service to assure that the proposed changes are consistent with its entry procedures.

Based on available information, the Administrator of the AMS has determined that this final rule imposes very minimal additional costs on affected importers, but should save considerable reconditioning, storage, and reporting expenses. The benefits of maintaining a high quality product should exceed any additional costs which may be incurred in meeting these requirements. On balance, the proposed changes are expected to reduce program costs incurred by importers.

The proposed rule concerning this action was published in **Federal Register** (63 FR 46181) on August 31, 1998. Copies of the rule were mailed to over 350 foreign and domestic peanut entities. A press release was issued and the proposal was made available through the Internet. The proposed rule provided for 30-day comment period which ended September 30, 1998. Seven comments were received and are addressed above. Several proposed changes have been modified in this final rule.

After consideration of all relevant material presented, it is found that finalizing the proposed rule as published in the **Federal Register** (63 FR 46181, August 31, 1998), with appropriate modifications, will tend to effectuate the declared policy of the Act.

It is also found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Reigister** because: (1) The changes need to be effective when the 1999 Mexican peanut import quota opens on January 1, 1999, so that all peanut importers are treated equally during 1999, as required by international trade agreements; (2) the rule relaxes requirements currently in place; (3) all known peanut importers and related industry sectors were sent copies of the proposed rule and they, as well as all other interested persons, were given 30 days to file comments on the recommended changes; and (4) all comments received have been considered and no changes have been made to increase the requirements proposed.

List of Subjects in 7 CFR Part 999

Dates, Food grades and standards, Hazelnuts, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For reasons set forth in the preamble, 7 CFR part 999 is amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 continues to read as follows:

Authority: 7 U.S.C. 601–674, 7 U.S.C. 1445c–3, and 7 U.S.C. 7271.

2. Section 999.600 is revised to read as follows:

§ 999.600 Regulation governing imports of peanuts.

(a) *Definitions.* (1) *Peanuts* means the seeds of the legume *Arachis hypogaea* and includes both inshell and shelled peanuts produced in countries other than the United States, other than those marketed in green form for consumption as boiled peanuts.

(2) *Farmers stock peanuts* means picked and threshed raw peanuts which have not been shelled, crushed, cleaned or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the form in which customarily marketed by producers.

(3) *Inshell peanuts* means peanuts, the kernels or edible portions of which are contained in the shell.

(4) *Incoming inspection* means the sampling and inspection of farmers stock peanuts to determine Segregation quality.

(5) *Segregation I peanuts,* unless otherwise specified, means farmers stock peanuts with not more than 2.00 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(6) *Segregation 2 peanuts,* unless otherwise specified, means farmers stock peanuts with more than 2.00 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(7) *Segregation 3 peanuts,* unless otherwise specified, means farmers stock peanuts with visible *Aspergillus flavus* mold.

(8) *Shelled peanuts* means the kernels of peanuts after the shells are removed.

(9) *Outgoing inspection* means the sampling and inspection of either: Shelled peanuts which have been cleaned, sorted, sized, or otherwise

prepared for human consumption markets; or, inshell peanuts which have been cleaned, sorted and otherwise prepared for inshell human consumption markets.

(10) *Negative aflatoxin content* means 15 parts-per-billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements.

(11) *Person* means an individual, partnership, corporation, association, or any other business unit.

(12) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the U.S. Department of Agriculture (Department or USDA) who is, or who may hereafter be, authorized to act on behalf of the Secretary.

(13) *Inspection service* means the Federal or Federal-State Inspection Service, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA.

(14) *USDA laboratory* means laboratories of the Science and Technology Programs, Agricultural Marketing Service, USDA, that chemically analyze peanuts for aflatoxin content.

(15) *PAC-approved laboratories* means laboratories approved by the Peanut Administrative Committee, pursuant to Marketing Agreement No. 146 (7 CFR part 998), that chemically analyze peanuts for aflatoxin content.

(16) *Conditionally released* means released from U.S. Customs Service custody for further handling, sampling, inspection, chemical analysis, and storage.

(17) *Importation* means the arrival of a peanut shipment at a port-of-entry with the intent to enter the peanuts into channels of commerce of the United States.

(b) *Incoming regulation.* (1) Farmers stock peanuts presented for consumption must undergo incoming inspection. All foreign-produced farmers stock peanuts for human consumption must be sampled and inspected at a buying point or other handling facility capable of performing incoming sampling and inspection. Sampling and inspection shall be conducted by the inspection service. Only Segregation 1 peanuts certified as meeting the following requirements may be used in human consumption markets:

(i) *Moisture.* Except as provided under paragraph (b)(2) of this section, peanuts may not contain more than 10.49 percent moisture: *Provided,* That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storage or milling.

(ii) *Foreign material.* Peanuts may not contain more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term ''sand-screen'' means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(iii) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(2) *Seed peanuts.* Farmers stock peanuts determined to be Segregation l quality, and shelled peanuts certified negative to aflatoxin (15 ppb or less), may be imported for seed purposes. Residuals from the shelling of Segregation l seed peanuts may be milled with other imported peanuts of the importer, and such residuals meeting quality requirements specified in paragraph (c)(1) of this section may be disposed to human consumption channels. Any portion not meeting such quality requirements shall be disposed to non-edible peanut channels pursuant to paragraphs (f) and (g) of this section. All disposition of seed peanuts and residuals from seed peanuts, whether commingled or kept separate and apart, shall be reported to the Secretary pursuant to paragraphs (f)(2) and (f)(3) of this section. The receiving seed outlet must retain records of the transaction, pursuant to paragraph (g)(7) of this section.

(3) *Oilstock and exportation.* Farmers stock peanuts of lower quality than Segregation 1 (Segregation 2 and 3 peanuts) shall be used only in non-edible outlets. Segregation 2 and 3 peanuts may be commingled but shall be kept separate and apart from edible quality peanut lots. Commingled Segregation 2 and 3 peanuts and Segregation 3 peanuts shall be disposed only to oilstock or exported. Shelled peanuts and cleaned-inshell peanuts which fail to meet the requirements for human consumption in paragraphs (c)(1) or (c)(2), respectively, of this section, may be crushed for oil or exported.

(c) *Outgoing regulation.* No person shall import peanuts for human consumption into the United States unless such peanuts are Positive Lot Identified and certified by the inspection service as meeting the following requirements:

(1) *Shelled peanuts.* (i) No importer shall dispose of shelled peanuts to human consumption markets unless such peanuts are Positive Lot Identified pursuant to paragraph (d)(4) of this section, certified as ''negative'' to aflatoxin, pursuant to paragraph (d)(5)(v)(A) of this section, and meet the requirements specified in the following table:

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MINIMUM GRADE REQUIREMENTS -- PEANUTS FOR HUMAN CONSUMPTION

Whole Kernels and Splits: Maximum Limitations

Type and grade category	Unshelled peanuts and damaged kernels	Unshelled peanuts, damaged kernels and minor defects	Fall through			Foreign materials	Moisture
			Sound split and broken kernels	Sound whole kernels	Total		
Excluding lots of "splits"							
Runner.	1.50%	2.50%	3.00%; 17/64 inch round screen	3.00%; 16/64 x 3/4 inch slot screen	4.00% both screens	.20%	9.00%
Virginia (except No. 2).	1.50%	2.50%	3.00%; 17/64 inch round screen	3.00%; 15/64 x 1 inch slot screen	4.00% both screens	.20%	9.00%
Spanish and Valencia.	1.50%	2.50%	3.00%; 16/64 inch round screen	3.00%; 15/64 x 3/4 inch slot screen	4.00% both screens	.20%	9.00%
No. 2 Virginia.	1.50%	3.00%	6.00%; 17/64 inch round screen	6.00%; 15/64 x 1 inch slot screen	6.00% both screens	.20%	9.00%
Runner with splits (not more than 15% sound splits)	1.50%	2.50%	3.00% 17/64 inch round screen	3.00% 16/64 x 3/4 inch slot screen	4.00% both screens	.10%	9.00%
Virginia with splits (not more than 15% sound splits)	1.50%	2.50%	3.00% 17/64 inch round screen	3.00% 15/64 inch slot screen	4.00% both screens	.10%	9.00%
Spanish & Valencia with splits (not more than 15% sound splits)	1.50%	2.50%	3.00% 16/64 inch round screen	2.00% 15/64 inch slot screen	4.00% both screens	.10%	9.00%
Lots of "splits"							
Runner (not more than 4% sound whole kernels)	2.00%	2.50%	3.00%; 17/64 inch round screen	3.00%; 14/64 x 3/4 inch slot screen	4.00% both screens	.20%	9.00%
Virginia (not less than 90% splits)	2.00%	2.50%	3.00%; 17/64 inch round screen	3.00%; 14/64 x 1 inch slot screen	4.00% both screens	.20%	9.00%
Spanish & Valencia (not more than 4% sound whole kernels)	2.00%	2.50%	3.00%; 16/64 inch round screen	3.00%; 13/64 x 3/4 inch slot screen	4.00%; both screens	.20%	9.00%

(ii) The term ''fall through,'' as used in this section, shall mean sound split and broken kernels and whole kernels which pass through specified screens.

(2) *Cleaned-inshell peanuts.* Peanuts declared as cleaned-inshell peanuts may be presented for sampling and outgoing inspection at the port-of-entry. Alternatively, peanuts may be conditionally released as cleaned-inshell peanuts but shall not subsequently undergo any cleaning, sorting, sizing or drying process prior to presentation for outgoing inspection as cleaned-inshell peanuts. Cleaned-inshell peanuts which fail outgoing inspection may be reconditioned or redelivered to the port-of-entry, at the option of the importer. Cleaned-inshell peanuts determined to be unprepared farmers stock peanuts must be inspected against incoming quality requirements and determined to be Segregation l peanuts prior to outgoing inspection for cleaned-inshell peanuts. Cleaned-inshell peanuts intended for human consumption may not contain more than:

(i) 1.00 percent kernels with mold present, unless a sample of such peanuts is drawn by the inspection service and analyzed chemically by a USDA or PAC-approved laboratory and certified ''negative'' as to aflatoxin.

(ii) 2.00 percent peanuts with damaged kernels;

(iii) 10.00 percent moisture (carried to the hundredths place); and

(iv) 0.50 percent foreign material.

(d) *Sampling and inspection.* (l) All sampling and inspection, quality certification, chemical analysis, and Positive Lot Identification, required under this section, shall be done by the inspection service, a USDA laboratory, or a PAC-approved laboratory, as applicable, in accordance with the procedures specified in this section. The importer shall make arrangements with the inspection service for sampling, inspection, Positive Lot Identification and certification of all peanuts accumulated by the importer. The importer also shall make arrangements for the appropriate disposition of peanuts failing edible quality requirements of this section. All costs of sampling, inspection, certification, identification, and disposition incurred in meeting the requirements of this section shall be paid by the importer. Whenever peanuts are offered for inspection, the importer shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection.

(2) For farmers stock inspection, the importer shall cause the inspection service to perform an incoming inspection and to issue a CFSA–1007, ''Inspection Certificate and Sales Memorandum,'' form designating the lot as Segregation 1, 2, or 3 quality peanuts. For shelled and cleaned-inshell peanuts, the importer shall cause the inspection service to perform an outgoing inspection and issue an FV–184–9A, ''Milled Peanut Inspection Certificate,'' reporting quality and size of the shelled or cleaned inshell peanuts, whether the lot meets or fails to meet quality requirements for human consumption of this section, and that the lot originated in a country other than the United States. The importer shall provide to the Secretary copies of all CFSA–1007 and FV–184–9A forms applicable to each peanut lot conditionally released to the importer. Such reports shall be submitted as provided in paragraphs (f)(2) and (f)(3) of this section.

(3) *Procedures for sampling and testing peanuts.* Sampling and testing of peanuts for incoming and outgoing inspections of peanuts presented for consumption into the United States will be conducted as follows:

(i) *Application for sampling.* The importer shall request inspection and certification services from one of the following inspection service offices convenient to the location where the peanuts are presented for incoming and/or outgoing inspection. To avoid possible delays, the importer should make arrangements with the inspection service in advance of the inspection date. A copy of the Customs Service entry document specific to the peanuts to be inspected shall be presented to the inspection official at the time of sampling the lot.

(A) The following offices provide incoming farmers stock inspection:

Dothan, AL, tel: (334) 792–5185,
Graceville, FL, tel: (904) 263–3204,
Winter Haven, FL, tel: (941) 291–5820, ext 260,
Albany, GA, tel: (912) 432–7505,
Williamston, NC, tel: (252) 792–1672,
Columbia, SC, tel: (803) 253–4597,
Suffolk, VA, tel: (757) 925–2286,
Portales, NM, tel: (505) 356–8393,
Oklahoma City, OK, tel: (405) 521–3864,
Gorman, TX, tel: (817) 734–3006.

(B) The following offices, in addition to the offices listed in paragraph (d)(3)(i)(A) of this section, provide outgoing sampling for certification of shelled and cleaned in-shell peanuts:

Eastern U.S.
Mobile, AL, tel: (334) 415–2531,
Jacksonville, FL, tel: (904) 359–6430,
Miami, FL, tel: (305) 870–9542,
Tampa, FL, tel: (813) 272–2470,
Presque Isle, ME, tel: (207) 764–2100,
Baltimore/Washington, tel: (301) 317–4387,
Boston, MA, tel: (617) 389–2480,
Newark, NJ, tel: (201) 645–2636,
New York, NY, tel: (718) 991–7665,
Buffalo, NY, tel: (800) 262–4810,
Philadelphia, PA, tel: (215) 336–0845.
Central U.S.
New Orleans, LA, tel: (504) 589–6741,
Detroit, MI, tel: (313) 226–6059,
St. Paul, MN, tel: (612) 296–8557,
Las Cruces, NM, tel: (505) 646–4929,
Alamo TX tel: (956) 787–4091.
El Paso, TX, tel: (915) 540–7723,
Houston, TX, tel: (713) 923–2557.
Western U.S.
Nogales, AZ, tel: (520) 281–4719,
Los Angeles, CA, tel: (213) 894–2489,
San Francisco, CA, tel: (415) 876–9313,
Honolulu, HI, tel: (808) 973–9566,
Salem, OR, tel: (503) 986–4620,
Seattle, WA, tel: (206) 859–9801.

(C) Questions regarding inspection services or requests for further assistance may be obtained from: Fresh Products Branch, PO Box 96456, room 2049–S, Fruit and Vegetable Programs, AMS, USDA, Washington, DC, 20090–6456, telephone (202) 690–0604, fax (202) 720–0393.

(ii) *Sampling.* Sampling of bulk farmers stock lots shall be performed at a facility that utilizes a pneumatic sampler or approved automatic sampling device. The maximum lot size of farmers stock peanuts shall be one conveyance, or two or more conveyances not exceeding a combined weight of 50,000 pounds (22,680 kilograms). Shelled peanut lots and cleaned-inshell lots, in bulk or bags, shall not exceed 200,000 pounds. For farmers stock, shelled and cleaned-inshell lots not completely accessible for sampling, the applicant shall be required to have lots made accessible for sampling pursuant to inspection service requirements. The importer shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by the inspection service. The amount of such peanuts drawn shall be large enough to provide for a grade and size analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. Because there is no acceptable method of drawing official samples from bulk conveyances of shelled peanuts, the importer shall arrange to have bulk conveyances of shelled peanuts sampled during the unloading process. A bulk lot sampled in this manner must be Positive Lot Identified by the inspection service and held in a sealed bin until the associated inspection and aflatoxin test results have been reported.

(4) Positive Lot Identification (PLI) shall be applied to all shelled and cleaned-inshell peanut lots during or immediately after first inspection by the inspection service or under the

guidance of the inspection service. Positive Lot Identification of a lot may be accomplished by: Wrapping PLI tape around bags or boxes on pallets; shrink wrapping pallets or multiple bags and applying a PLI sticker; stenciling and numbering of individual bags or boxes; affixing PLI seals on shipping container doors; or by other methods acceptable to the inspection service that clearly identifies the lot, is securely affixed to the lot, and prevents peanuts from being removed or added to the lot. Such positive lot identification methods may be dictated by the size and containerization of the lot, by warehouse storage or space requirements, or, by necessary further movement of the lot prior to receipt of certification. All lots forwarded to a reconditioning facility must be accompanied by valid PLI certification. Failing lots that are reconditioned shall be positive lot identified by sewing tags on bags or affixing a seal and taping bulk bin containers after such reconditioning or by other means acceptable to the inspection service that clearly identifies the peanuts in the lot, is securely affixed to the lot, and which prevents peanuts from being removed or added to the lot.

(5) *Aflatoxin assay.* (i) The importer shall cause appropriate samples of each lot of shelled peanuts intended for edible consumption to be drawn by the inspection service. The three 48-pound samples shall be designated by the inspection service as ''Sample 1IMP,'' ''Sample 2IMP,'' and ''Sample 3IMP'' and each sample shall be placed in a suitable container and lot identified by the inspection service. Sample 1IMP may be prepared for immediate testing or Samples 1IMP, 2IMP and 3IMP may be returned to the importer for testing at a later date, under Positive Lot Identification procedures.

(ii) The importer shall cause Sample 1IMP to be ground by the inspection service or a USDA or PAC-approved laboratory in a subsampling mill. The resultant ground subsample shall be of a size specified by the inspection service and shall be designated as ''Subsample 1–ABIMP.'' At the importer's option, a second subsample may also be extracted from Sample 1IMP and designated ''Subsample 1–CDIMP'' which may be sent for aflatoxin assay to a USDA or PAC-approved laboratory. Both subsamples shall be accompanied by a Milled Peanut Inspection Certificate or Notice of Sampling signed by the inspector containing identifying information as to the importer, the lot identification of the shelled peanut lot, and other information deemed necessary by the inspection service. Subsamples 1–ABIMP and 1–CDIMP shall be analyzed only in a USDA or PAC-approved laboratory. The methods prescribed by the Instruction Manual for Aflatoxin Testing, SD Instruction-1, August 1994, shall be used to assay the aflatoxin level. The cost of testing and notification of Subsamples 1–ABIMP and 1–CDIMP shall be borne by the importer.

(iii) The samples designated as Sample 2IMP and Sample 3IMP shall be held as aflatoxin check-samples by the inspection service or the importer until the analyses results from Sample 1IMP are known. Upon call from the USDA or PAC-approved laboratory, the importer shall cause Sample 2IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample from Sample 2IMP shall be designated as ''Subsample 2–ABIMP.'' Upon further call from the laboratory, the importer shall cause Sample 3IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample shall be designated as ''Subsample 3–ABIMP.'' The importer shall cause Subsamples 2–ABIMP and 3–ABIMP to be sent to and analyzed only in a USDA or PAC-approved laboratory. Each subsample shall be accompanied by a Milled Peanut Inspection Certificate or a Notice of Sampling. All costs involved in the sampling, shipment and assay analysis of subsamples required by this section shall be borne by the importer.

(iv)(A) To arrange for chemical analysis, importers shall contact one of the following USDA or PAC-approved laboratories:

Science and Technology Programs, AMS, 301 West Pearl St., Aulander, NC 27805, (P.O. Box 279), Tel: (919) 345–1661 Ext. 156, Fax: (919) 345–1991

Science and Technology Programs, AMS, 1211 Schley Ave., Albany, GA 31707, Tel: (912) 430–8490/8491, Fax: (912) 430–8534

Science and Technology Programs, AMS, 610 North Main St., Blakely, GA 31723, Tel: (912) 723–4570, Fax: (912) 723–3294

Science and Technology Programs, AMS, 107 South Fourth St., Madill, OK 73446, Tel: (405) 795–5615, Fax: (405) 795–3645

Science and Technology Programs, AMS, 715 North Main St., Dawson, GA 31742, (PO Box 272), Tel: (912) 995–7257, Fax: (912) 995–3268

Science and Technology Programs, AMS, 308 Culloden St., Suffolk, VA 23434,(P.O. Box 1130), Tel: (757) 925–2286, Fax: (757) 925–2285

Federal-State Inspection Service Laboratory, 1557 Reeves St., Dothan, AL 36303, (PO Box 1368, zip 36302)), Tel: (334) 792–5185, Fax: (334) 671–7984

Federal-State Inspection Service Laboratory, 201 Broad St., Headland, AL 36345, (PO Box 447, zip 36345–0447), Tel: (334) 693–2729, Fax: (334) 693–2183

Federal-State Inspection Service Laboratory, 103 Greenville Ave., Goshen, AL 36035, (PO Box 204), Tel: (334) 484–3340, Fax: (334) 484–3340

Federal-State Inspection Service Laboratory, 805 North Main St., Enterprise, AL 36330, (PO Box 310926), Tel: (334) 347–6525

ABC Research, 3437 SW 24th Ave., Gainesville, FL 32607, Tel: (904) 372–0436, Fax: (904) 378–6483

J. Leek Associates, Inc., 1200 Wyandotte, Albany, GA 31705, (PO Box 50395, zip 31703), Tel: (912) 889–8293, Fax: (912) 888–1166

J. Leek Associates, Inc., 139 South Lee St., Ashburn, GA 31714, Tel: (912) 567–3703, Fax: (912) 567–8055

J. Leek Associates, Inc., 402 SE 3rd Street, Anadarko, OK 73005, Tel: (405) 247–3266, Fax: (405) 247–3270

J. Leek Associates, Inc., PO Box 475, Blakely, GA 31723, Tel: (912) 723–9155, Fax: (912) 723–2980

J. Leek Associates, Inc., 502 West Navarro St., DeLeon, TX 76444, (PO Box 6), Tel: (817) 893–3653, Fax: (817) 893–3640

J. Leek Associates, Inc., PO Box 333, Headland, AL 36345, Tel: (334) 693–9320, Fax: (334) 693–0491

Pert Laboratory South, 721 East Pine Street, Colquitt, GA 31737, (PO Box 396), Tel: (912) 758–9293, Fax: (912) 758–8286

Pert Laboratories, 145 Peanut Drive, Edenton, NC 27932, (PO Box 267), Tel: (252) 482–4456, Fax: (252) 482–5370

Southern Cotton Oil Company, 600 E. Nelson Street, Quanah, TX 79252, (PO Box 180), Tel: (940) 663–5323, Fax: (940) 663–5091

Quanta Lab, 9330 Corporate Drive, Suite 703, Selma, TX 78154–1257, Tel: (210) 651–5799, Fax: (210) 651–9271

(B) Further information concerning the chemical analyses required pursuant to this section may be obtained from: Science and Technology Programs, AMS, USDA, PO Box 96456, room 3507-S, Washington, DC 20090–6456, Tel (202) 720–5231, or Fax (202) 720–6496.

(v) *Reporting aflatoxin assays.* A separate aflatoxin assay certificate, Form CSSD–3 ''Certificate of Analysis for Official Samples'' or equivalent PAC-approved laboratory form, shall be issued by the laboratory performing the analysis for each lot. The assay certificate shall identify the importer, the volume of the peanut lot assayed, date of the assay, and numerical test result of the assay. The importer shall file, or cause to be filed, with the Secretary, all USDA Form CSSD–3, or equivalent chemical assay forms issued on failing peanuts. The importer shall cause the results of all chemical assays issued by PAC-approved laboratories to be filed with the Secretary. The results of the assay shall be reported as follows.

(A) For the current peanut quota year, ''negative'' aflatoxin content means 15 parts per billion (ppb) or less aflatoxin content for peanuts which have been

certified as meeting edible quality grade requirements. Such lots shall be certified as ''Meets U.S. import requirements for edible peanuts under § 999.600 with regard to aflatoxin.''

(B) Lots containing more than 15 ppb aflatoxin content shall be certified as ''Fails to meet U.S. import requirements for edible peanuts under Section § 999.600 with regard to aflatoxin.'' The certificate of any non-edible peanut lot also shall specify the aflatoxin count in ppb.

(6) *Appeal inspection.* In the event an importer questions the results of a quality and size inspection, an appeal inspection may be requested by the importer and performed by the inspection service. A second sample will be drawn from each container and shall be double the size of the original sample. The results of the appeal sample shall be final and the fee for sampling, grading and aflatoxin analysis shall be charged to the importer. Lots that show evidence of PLI violation or tampering, as determined by the inspection service, are not eligible for appeal inspection.

(e) *Disposition of peanuts failing edible quality requirements.* Peanuts shelled, sized, and sorted in another country prior to arrival in the U.S. and shelled peanuts which originated from imported Segregation 1 peanuts that fail minimum grade requirements specified in the table in paragraph (c)(1)(i) of this section (excessive damage, minor defects, moisture, or foreign material) or are positive to aflatoxin may be reconditioned by remilling and/or blanching. Peanuts that fail minimum grade requirements because of excessive ''fall through'' may be blanched. After such reconditioning, peanuts meeting the minimum grade requirements in the table, including minimum ''fall through'' requirements, and which are negative to aflatoxin (15 ppb or less), may be disposed for edible use. Residual peanuts resulting from milling or reconditioning of such lots shall be disposed of as prescribed as follows:

(1) Failing peanut lots may be disposed for non-human consumption uses (such as livestock feed, wild animal feed, rodent bait, seed, etc.) which are not otherwise regulated by this section; *Provided,* That each such lot is Positive Lot Identified and certified as to aflatoxin content (actual numerical count). On the shipping papers covering the disposition of each such lot, the importer shall cause the following statement to be shown: ''The peanuts covered by this bill of lading (or invoice) are not to be used for human consumption.''

(2) Peanuts, and portions of peanuts which are separated from edible quality peanuts by screening or sorting or other means during the milling process (''sheller oilstock residuals''), may be sent to non-edible peanut markets pursuant to paragraph (e)(1) of this section, crushed or exported. Such peanuts may be commingled with other milled residuals. Such peanuts shall be positive lot identified, red tagged in bulk or bags or other suitable containers.

(i) If such peanuts have not been certified as to aflatoxin content, as prescribed in paragraph (d) of this section, disposition is limited to crushing and the importer shall cause the following statement to be shown on the shipping papers: ''The peanuts covered by this bill of lading (or invoice, etc.) are limited to crushing only and may contain aflatoxin.''

(ii) If the peanuts are certified as 301 ppb or more aflatoxin content, disposition shall be limited to crushing or export.

(3) Shelled peanuts which originated from Segregation 1 peanuts that fail minimum grade requirements specified in the table in paragraph (c)(1)(i) of this section, peanuts derived from the milling for seed of Segregation 2 and 3 farmers stock peanuts, and peanuts which are positive to aflatoxin, may be remilled or blanched. Residuals of remilled and/or blanched peanuts which continue to fail minimum grade requirements in the table shall be disposed pursuant to paragraphs (e)(1) or (2) of this section.

(4) Shelled peanuts that are certified as meeting minimum grade requirements specified in the table in paragraph (c)(1)(i) of this section and which are positive to aflatoxin may be roasted during blanching. After roasting, such peanuts certified as meeting aflatoxin requirements (15 ppb or less), and which are positive lot identified, may be disposed to human consumption outlets without further grade analysis. The residual peanuts, excluding skins and hearts, resulting from roasting process, shall be red tagged and disposed of to non-edible outlets pursuant to paragraphs (e)(1) or (2) of this section.

(5) All certifications, lot identifications, and movement to non-edible dispositions, sufficient to account for all peanuts in each consumption entry, shall be reported to the Secretary by the importer pursuant to paragraphs (f)(2) and (f)(3) of this section.

(f) *Safeguard procedures.* (l) Prior to, or upon, arrival of a foreign-produced peanut lot at a port-of-entry, the importer, or customs broker acting on behalf of the importer, shall mail or send by facsimile transmission (fax) a copy of the Customs Service entry documentation for the peanut lot or lots to the inspection service office that will perform sampling of the peanut shipment. More than one lot may be entered on one entry document. The documentation shall include: The Customs Service entry number; the container number(s) or other identification of the lot(s); the volume of peanuts in each lot being entered; the inland shipment destination where the lot will be in storage or made available for inspection; and a contact name or telephone number at that destination. The inspection office shall sign, stamp, and return the entry document to the importer. The importer shall cause a copy of the relevant entry documentation to accompany each peanut lot and be presented to the inspection service at the time of sampling.

(2) The importer shall file, of cause to have filed, with the Secretary, copies of failing grade and aflatoxin certificates and non-edible disposition documents which identify the importer and the disposition outlet for failing quality peanuts. Such reports shall be sufficient to account for all peanuts failing quality requirements of this section: *Provided, That:* importers shall cause all certificates of peanuts meeting aflatoxin requirements issued by PAC-approved laboratories to be filed with the Secretary. Proof of non-edible disposition may include bills-of-lading, transfer certificates, and other documentation showing shipment from the importer, blancher, remiller, warehouse, or other entity, to crushing, feed or seed use, burying, or other non-edible disposition. Such documentation must include the weight of peanuts being disposed and the name and telephone number of the disposing entity. Proof of re-export must include U.S. Customs Service documentation showing exportation from the United States. These documents must be sent to the Marketing Order Administration Branch, Attn: Report of Imported Peanuts. Facsimile transmissions and overnight mail may be used to ensure timely receipt of inspection certificates and other documentation. Fax reports should be sent to (202) 205–6623. Overnight and express mail deliveries should be addressed to USDA, AMS, FV, Marketing Order Administration Branch, 1400 Independence Avenue, SW, Room: 2525–S, Washington, DC, 20250, Attn: Report of Imported Peanuts. Regular mail should be sent to FV, AMS, USDA, PO Box 96456, Room

2525–S, Washington, DC 20090–6456, Attn: Report of Imported Peanuts.

(3) All peanuts imported into the United States subject to this part shall be conditionally released by the U.S. Customs Service for a period of 180 days following the date of Customs Service release, for the purpose of determining whether such peanuts meet the quality requirements for human consumption or non-edible disposition and reporting such certification or non-edible disposition to the Secretary.

(4) If the Secretary finds during, or upon termination, of the conditional release period that a lot of peanuts is not entitled to admission into the commerce of the United States, the Secretary shall request the Customs Service, within 30 days after close of the conditional release period, to demand return of said lot of peanuts to Customs Service custody. Failure to comply with a redelivery demand within 30 days of the date of the redelivery demand, may result in the assessment against the importer of record and surety, jointly and severally of liquidated damages equal to the value of the peanuts involved. Failure to fully comply with quality and handling requirements or failure to notify the Secretary of disposition of all foreign-produced peanuts, as required under this section, may result in a compliance investigation by the Secretary. Falsification of reports submitted to the Secretary is a violation of Federal law punishable by fine or imprisonment, or both.

(5) An extension of the 180-day conditional release period may be granted by the Secretary upon request of the importer. Extension shall not exceed an additional 60 calendar days. Requests for extension shall be specific to each peanut lot and shall include the lot's Customs Service entry number, the positive lot identification, weight or volume, and current storage location. Requests for extension of the conditional release period shall be made in writing pursuant to paragraph (f)(2) of this section.

(6) Peanuts for which an import application is filed with the Customs Service but which are subsequently exported without sampling or inspection by the inspection service, need not be reported to the Secretary.

(7) *Reinspection.* Whenever the Secretary has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Secretary may reject the then effective inspection and aflatoxin certificates and require the importer to have the peanuts reinspected to establish whether or not such peanuts may be disposed of for human consumption.

(8) *Early arrival and storage.* Peanut lots sampled and inspected upon arrival in the United States, but placed in storage for more than one month prior to beginning of the quota year for which the peanuts will be entered, must be reported to AMS at the time of inspection. The importer shall file copies of the Customs Service documentation showing the volume of peanuts placed in storage and the storage location, including any identifying number of the storage warehouse. Such peanuts should be stored in clean, dry warehouses and under cold storage conditions consistent with industry standards. Pursuant to paragraph (f)(7) of this section, the Secretary may require reinspection of the lot at the time the lot is declared for entry with the Customs Service.

(g) *Additional requirements.* (1) Nothing contained in this section shall preclude any importer from milling or reconditioning, prior to importation, any shipment of peanuts for the purpose of making such peanuts eligible for importation into the United States. However, all peanuts intended for human consumption use must be certified as meeting the quality requirements specified in paragraph (c) of this section, prior to such disposition.

(2) Conditionally released peanut lots of like quality and belonging to the same importer may be commingled. Defects in an inspected lot may not be blended out by commingling with other lots of higher quality. Commingling also must be consistent with applicable Customs Service regulations. Commingled lots must be reported and disposed of pursuant to paragraphs (f)(2) and (f)(3) of this section.

(3) Inspection by the Federal or Federal-State Inspection Service shall be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 51). The importer shall make each conditionally released lot available and accessible for inspection as provided in this section. Because inspectors may not be stationed in the immediate vicinity of some ports-of-entry, importers must make arrangements for sampling, inspection, and certification through one of the offices and laboratories listed in paragraphs (d)(3) and (d)(5) of this section, respectively.

(4) Imported peanut lots sampled and inspected at the port-of-entry, or at other locations, shall meet the quality requirements of this section in effect on the date of inspection.

(5) A foreign-produced peanut lot entered for consumption or for warehouse may be transferred or sold to another person: *Provided,* That the original importer shall be the importer of record unless the new owner applies for bond and files Customs Service documents pursuant to 19 CFR 141.20 and 141.113: *Provided further,* That such peanuts must be certified and reported to the Secretary pursuant to paragraphs (f)(2) and (f)(3) of this section.

(6) Payment of the cost of transportation, sampling, inspection, certification, chemical analysis, and Positive Lot Identification, as well as remilling and blanching, and further inspection of remilled and blanched lots, and disposition of failing peanuts, shall be the responsibility of the importer. Whenever an applicant presents peanuts for inspection, the applicant shall furnish any labor and pay any costs incurred in moving, opening containers for sampling, and the shipment of samples as may be necessary for proper sampling and inspection. The inspection service shall bill the applicant for fees covering quality inspections and other certifications as may be necessary to certify edible quality or non-edible disposition. USDA and PAC-approved laboratories shall bill the applicant separately for aflatoxin assay fees. The importer also shall pay Customs Service costs as required by that agency.

(7) Each person subject to this section shall maintain true and complete records of activities and transactions specified in this section. Such records and documentation accumulated during entry shall be retained for not less than two years after the calendar year of acquisition, except that Customs Service documents shall be retained as required by that agency. The Secretary, through duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted, at any such time, to inspect such records and any peanuts held by such person.

(8) The provisions of this section do not supersede any restrictions or prohibitions on peanuts under the Federal Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, any other applicable laws, or regulations of other Federal agencies, including import regulations and procedures of the Customs Service.

Dated: December 16, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

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AGRICULTURE DEPARTMENT

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Farm labor housing loans and grants; processing requests; comments due by 12-28-98; published 10-29-98

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Farm labor housing loans and grants; processing requests; comments due by 12-28-98; published 10-29-98

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Farm labor housing loans and grants; processing requests; comments due by 12-28-98; published 10-29-98

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Northeastern United States fisheries and American lobster; comments due by 12-28-98; published 11-13-98

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Javits-Wagner-O'Day Act participating nonprofit agencies; name change or successor in interest procedures; comments due by 12-28-98; published 10-27-98

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New York; comments due by 12-28-98; published 11-27-98

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