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federal register

Thursday
February 4, 1999

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: February 23, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Presidential Documents

Title 3—

The President

Proclamation 7165 of February 1, 1999

National African American History Month, 1999

By the President of the United States of America

A Proclamation

The story of African Americans is one of strength, suffering, courage, and triumph. Arriving on these shores more than 350 years ago, African Americans have been a central element of our national identity, and their long journey from the horrors of slavery and oppression through the struggle for equality and justice informs our national experience. By observing African American History Month each year, we not only remember the tragic errors of our past, but also celebrate the achievements of African Americans and the promise they hold for our future as one America.

This year's theme, ''The Legacy of African American Leadership for the Present and the Future,'' is a recognition that we can draw strength and inspiration to face our challenges from the vision, voices, character, and accomplishments of the many extraordinary African Americans who have gone before us. These gifted men and women, from every walk of life and every field of endeavor, were shaped but not defeated by their experience of racism, and their response was to move our Nation closer to our ideals of freedom, justice, and equality.

We remember Frederick Douglass and Sojourner Truth, whose powerful firsthand accounts of their lives as slaves and the moral strength of their argument helped create the momentum that brought an end to slavery in America. In our own century, we all have benefited from the skills, determination, and indefatigable spirit of such African American leaders as Booker T. Washington, W.E.B. Du Bois, A. Philip Randolph, Ella Baker, Thurgood Marshall, Medgar Evers, and Martin Luther King, Jr. Whether organizing peaceful demonstrations, creating educational and economic opportunities, fighting Jim Crow laws in the courts, or conducting peaceful protests, they awakened the conscience of our Nation and won signal victories for justice and human dignity. We recall the courage of the Little Rock Nine, who opened the doors of American education for so many other deserving young people. We remember the strength of Rosa Parks, who stood up for civil rights by sitting down where she belonged. We continue to draw inspiration from the leadership of Dorothy Height, who has done so much to strengthen families and communities not only in our own Nation, but also around the world.

These and so many other African American leaders have enriched our national life and shaped our national character. They have challenged us to recognize that America's racial, cultural, and ethnic diversity will be among our greatest strengths in the 21st century.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 1999 as National African American History Month. I call upon public officials, educators, librarians, and all the people of the United States to observe this month with appropriate ceremonies, activities, and programs that raise awareness and appreciation of African American history.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

[FR Doc. 99–2855
Filed 2–3–99; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–295–AD; Amendment 39–11021; AD 99–03–07]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Bombardier Model DHC–7 series airplanes, that requires removal of all attachment bolts and pre-load indicating (PLI) washers of the wing-to-fuselage attachment fittings; a one-time visual inspection to detect corrosion of each attachment bolt; and installation of new attachment bolts and PLI washers of the wing-to-fuselage attachment fittings. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the attachment bolts of the wing-to-fuselage attachment fittings due to stress corrosion cracking, which could result in reduced structural integrity of the airplane.

DATES: Effective March 11, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 11, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Bombardier Model DHC–7 series airplanes was published in the **Federal Register** on November 30, 1998 (63 FR 65716). That action proposed to require removal of all attachment bolts and pre-load indicating (PLI) washers of the wing-to-fuselage attachment fittings; a one-time visual inspection to detect corrosion of each attachment bolt; and installation of new attachment bolts and PLI washers of the wing-to-fuselage attachment fittings.

Conclusion

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 50 Model DHC–7 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 65 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $3,200 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $355,000, or $7,100 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–03–07 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–11021. Docket 98–NM–295–AD.

Applicability: All Model DHC–7 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the attachment bolts of the wing-to-fuselage attachment fittings due to stress corrosion cracking, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Within 12 months after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD, in accordance with Bombardier Service Bulletin S.B. 7–57–37, dated August 8, 1997.

(1) Remove all attachment bolts (one at a time) and pre-load indicating (PLI) washers of the wing-to-fuselage attachment fittings.

(2) Perform a one-time visual inspection to detect corrosion of each attachment bolt. If any corrosion is detected, within 10 days after accomplishing the visual inspection, or within 10 days after the effective date of this AD, whichever occurs later, submit a report of the inspection results to Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(3) Install new attachment bolts (one at a time) and new PLI washers of the wing-to-fuselage attachment fittings.

(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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

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

(d) The removal, inspection, and installation shall be done in accordance with Bombardier Service Bulletin S.B. 7–57–37, dated August 8, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at at the FAA Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–98–12, dated June 24, 1998.

(e) This amendment becomes effective on March 11, 1999.

Issued in Renton, Washington, on January 28, 1999.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–2497 Filed 2–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–289–AD; Amendment 39–11020; AD 99–03–06]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–60 SHERPA Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Short Brothers Model SD3–60 SHERPA series airplanes, that requires a one-time visual inspection to determine the part number of the power control cable assemblies and pulleys of the engine controls; and replacement of the power control cable assemblies and pulleys (as applicable) with new parts, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent breakage of the power control cable assemblies due to the inflexible construction of the cable, which could result in loss of engine power and consequent reduced controllability of the airplane.

DATES: Effective March 11, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 11, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Short Brothers Model SD3–60 SHERPA series airplanes was published in the **Federal Register** on November 30, 1998 (63 FR 65718). That action proposed to require a one-time visual inspection to determine the part number of the power control cable assemblies and pulleys of the engine controls; and replacement of the power control cable assemblies and pulleys (as applicable) with new parts, if necessary.

Comments

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

Additional Service Information

Since the issuance of the proposal, Short Brothers has issued Service Bulletin SD3–60 SHERPA–76–1, Revision 1, dated October 14, 1998. The FAA has determined that the technical procedures described in that revision are equivalent to the technical procedures described in SD3–60 SHERPA–76–1, dated July 1998 (which was cited in the proposal as the appropriate source of service

information for accomplishment of the actions). The only change effected by Revision 1 is to clarify certain procedures. The final rule has been revised to require accomplishment of the actions in accordance with either the original issue or Revision 1 of the service bulletin.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 28 airplanes of U.S. registry will be affected by this AD, that it will take approximately 15 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $25,200, or $900 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–03–06 Short Brothers, PLC: Amendment 39–11020. Docket 98–NM–289–AD.

Applicability: All Model SD3–60 SHERPA series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent breakage of the power control cable assemblies due to the inflexible construction of the cable, which could result in loss of engine power and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 1,200 flight hours after the effective date of this AD, perform a one-time visual inspection to determine the part number (P/N) of the power control cable assemblies and pulleys of the engine controls, in accordance with Part A of the Accomplishment Instructions of Shorts Service Bulletin SD3–60 SHERPA–76–1, dated July 1998, or Revision 1, dated October 14, 1998.

(1) If any power control cable assembly having P/N SD3–47–1091 or SD3–47–1094 is found, prior to further flight, replace the power control cable assembly with a new power control cable assembly in accordance with Part B of the Accomplishment Instructions of the service bulletin.

(2) If any pulley having P/N C181605 is found, prior to further flight, replace the pulley with a new pulley in accordance with Part C of the Accomplishment Instructions of the service bulletin.

(b) As of the effective date of this AD, no person shall install on the engine controls of any airplane a cable assembly having P/N SD3–47–1091 or SD3–47–1094, or any pulley having P/N C181605.

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

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

(d) 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.

(e) The inspection and replacement shall be done in accordance with Shorts

Service Bulletin SD3–60 SHERPA–76–1, dated July 1998, or with Shorts Service Bulletin SD3–60 SHERPA–76–1, Revision 1, dated October 14, 1998, which contains the following list of effective pages:

Page No.	Revision Level shown on page	Date shown on page
1–3, 7, 8, 10–16, 23, 29.	1	July 1998.
4–6, 9, 17–22, 24–28.	Original	Oct. 14, 1998.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 004–07–98.

(f) This amendment becomes effective on March 11, 1999.

Issued in Renton, Washington, on January 28, 1999.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–2496 Filed 2–3–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–362–AD; Amendment 39–11022; AD 99–03–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, –700IGW, and –800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–600, –700, –700IGW, and –800 series airplanes. This action requires repetitive inspections to detect discrepancies of the quick-disconnect coupling on the fuel hose, located at the fan case firewall; corrective action, if necessary; and installation of a clamp shell on the coupling to prevent separation of the coupling halves. This amendment is prompted by a report that a quick-disconnect coupling on the fuel hose on an in-service airplane was found loose and leaking fuel. The actions specified in this AD are intended to detect and correct excessive wear of the quick-disconnect coupling on the fuel hose, which could result in major fuel leakage, fire in the engine nacelle, and consequent loss of thrust from the affected engine.

DATES: Effective February 19, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 19, 1999.

Comments for inclusion in the Rules Docket must be received on or before April 5, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–362–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bernie Gonzalez, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2682; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that the quick-disconnect coupling on the fuel hose was found loose and leaking fuel on an in-service Boeing Model 737–700 series airplane. As a result of this report, Boeing requested that all operators perform inspections to detect wear of the quick-disconnect coupling on the fuel hose on both engines of all Boeing Model 737–600, –700, –700IGW, and –800 series airplanes. During these inspections, an excessively worn coupling was found on numerous airplanes, and several of these discrepant couplings were leaking fuel. Wear of the coupling, which is located at the fan case firewall of the engines, has been attributed to resonance vibration from the engine-driven hydraulic pump.

Excessive wear of the quick-disconnect coupling on the fuel hose, if not corrected, could initially cause leakage of a small amount of fuel into the fan case fire zone of the engines. If such initial leakage is not detected and corrected, the coupling could become disconnected. Such disconnection could result in major fuel leakage, fire in the engine nacelle, and consequent loss of thrust from the affected engine.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–73A1011, dated November 25, 1998, which describes procedures for repetitive visual inspections to detect discrepancies (i.e., fuel leakage, wear of the lock teeth, and missing lock pins on the coupling nut) of the quick-disconnect coupling on the fuel hose; and corrective action, if necessary. If the coupling is found to be leaking, corrective actions include tightening the coupling nut; or if the coupling nut is tight, the lock teeth on the coupling are excessively worn, or one or more lock pins are missing, corrective actions include replacing the O-ring packing on the engine strut fuel fitting and replacing the fuel hose assembly. The alert service bulletin also describes procedures for installation of a clamp shell on the quick-disconnect coupling to prevent separation of the coupling halves. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct excessive wear of the quick-disconnect coupling on the fuel hose, located at the fan case firewall of the engines; which could result in major fuel leakage, fire in the engine nacelle, and consequent loss of thrust from the affected engine. This AD requires accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between This Rule and the Alert Service Bulletin

Operators should note that this AD requires, within 30 days, the installation of the clamp shell described in the alert service bulletin. Installation of the clamp shell is identified in the alert service bulletin as an option that would allow the repetitive inspection interval to be increased from 500 to 1,000 flight hours.

The FAA has determined that long-term continued operational safety will be better assured by installation of a device to prevent separation of the coupling halves and repetitive inspections at an interval not to exceed 1,000 flight hours, rather than by accomplishment of more frequent repetitive inspections (at intervals not to exceed 500 flight hours). Inspections alone (i.e., without the installation of the clamp shell) may not provide the degree of safety assurance necessary for the transport airplane fleet.

In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the availability of required parts, and the time necessary to perform the installation (2 work hours). In light of all of these factors, the FAA finds a compliance time of 30 days for accomplishing the installation to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–362–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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–03–08 Boeing: Amendment 39–11022. Docket 98–NM–362–AD.

Applicability: Model 737–600, –700, –700IGW, and –800 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct excessive wear of the quick-disconnect coupling on the fuel hose, which could result in major fuel leakage, fire in the engine nacelle, and consequent loss of thrust from the affected engine, accomplish the following:

(a) Within 7 days after the effective date of this AD, perform a visual inspection to detect discrepancies (i.e., fuel leakage, wear of the lock teeth, or missing lock pins on the coupling nut) of the quick-disconnect coupling on the fuel hose, located at the fan case firewall, in accordance with Boeing Alert Service Bulletin 737–73A1011, dated November 25, 1998.

(1) If no discrepancy is detected, repeat the inspection thereafter at intervals not to exceed 500 flight hours, until the installation required by paragraph (b) of this AD is accomplished.

(2) If any discrepancy is detected, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with TABLE 1. of the Accomplishment Instructions of the alert service bulletin, and repeat the inspection thereafter at the time specified in TABLE 1. of the Accomplishment Instructions of the alert service bulletin.

(b) Within 30 days after the effective date of this AD, install an Aeroquip Clamp Shell, having part number (P/N) AE20074–165, on the quick-disconnect coupling on the fuel hose, which is located at the fan case firewall, in accordance with Boeing Alert Service Bulletin 737–73A1011, dated November 25, 1998. Accomplishment of such installation terminates the repetitive inspection requirements of paragraph (a)(1) and (a)(2) of this AD. Within 1,000 flight hours after installation of the clamp shell, repeat the inspection specified in paragraph (a) of this AD.

(1) If no discrepancy is detected, repeat the inspection thereafter at intervals not to exceed 1,000 flight hours.

(2) If any discrepancy is detected, prior to further flight, perform follow-on corrective actions, as applicable, in accordance with TABLE 1. of the Accomplishment Instructions of the alert service bulletin, and repeat the inspection thereafter at the time specified in TABLE 1. of the Accomplishment Instructions of the alert service bulletin.

(c) 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 Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(d) 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.

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 737–73A1011, dated November 25, 1998. This

incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 19, 1999.

Issued in Renton, Washington, on January 28, 1999.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–2495 Filed 2–3–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–83–AD; Amendment 39–11023; AD 99–03–09]

RIN 2120–AA64

Airworthiness Directives; Allison Engine Company, Inc. AE 2100A, AE 2100C, and AE 2100D3 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Allison Engine Company, Inc. AE 2100A, AE 2100C, and AE 2100D3 series turboprop engines. This action requires removing from service affected turbine wheels prior to exceeding new, reduced cyclic life limits. This amendment is prompted by the results of a refined life analysis. The actions specified in this AD are intended to prevent an uncontained turbine wheel failure, which could result in damage to the aircraft.

DATES: Effective February 19, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 19, 1999.

Comments for inclusion in the Rules Docket must be received on or before April 5, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–83–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9–ad-engineprop@faa.gov.'' Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Allison Engine Company, Inc., P.O. Box 420, Speed Code U–15, Indianapolis, IN 46206–0420, telephone (317) 230–6674. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, Office Address; telephone (847) 294–8180, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: Allison Engine Company, Inc., the manufacturer of AE 2100A, AE 2100C, and AE 2100D3 series turboprop engines, suspects that certain serial number turbine wheels may have Tungsten contamination. Additionally, the manufacturer reevaluated the effect on the service life of a wheel surface treatment, which is part of the current manufacturing process. A refined life analysis, which took both the possibility of Tungsten contamination and the surface treatment into account, revealed new maximum service lives significantly lower than those previously published. This condition, if not corrected, could result in an uncontained turbine wheel failure, which could result in damage to the aircraft.

The FAA has reviewed and approved the technical contents of Rolls-Royce Alert Service Bulletin (ASB) AE 2100A–A–72–191, AE 2100C–A–72–141, and AE 2100D3–A–72–130, all dated December 17, 1998, that list new, reduced cyclic life limits for affected turbine wheels.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent uncontained turbine wheel failure. This AD requires removing from service affected turbine wheels prior to exceeding new, reduced cyclic life limits. The actions shall be accomplished in accordance with the ASB's described previously.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–83–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this

action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–03–09 Allison Engine Company, Inc.: Amendment 39–11023. Docket 98–ANE–83–AD.

Applicability: Allison Engine Company, Inc. AE 2100A, AE 2100C, and AE 2100D3 series turboprop engines, with turbine wheels, part numbers (P/Ns) 23053358, 23059878, 23062373, 23062376, 23063462, 23064473, 23064474, 23064822, 23065891, 23065892, 23066791, and 23068072 installed. These engines are installed on but not limited to Saab Aircraft AB 2000, Industri Pesawat Terbang Nusantara (IPTN) Model N–250–100, and Lockheed Martin Model 382J (Military C130J) series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained turbine wheel failure, which could result in damage to the aircraft, accomplish the following:

(a) Remove from service the following turbine wheels installed in AE 2100A series engines prior to exceeding new, reduced cyclic life limits and replace with serviceable parts as follows:

(1) 4th Stage Turbine Wheels, P/N 23053358, prior to 8,900 cycles since new (CSN).

(2) 1st Stage Turbine Wheels, P/N 23062373, identified by serial numbers (S/N's) in Table 9 of Rolls-Royce Alert Service Bulletin (ASB) No. AE 2100A–A–72–191, dated December 17, 1998, prior to 10,000 CSN.

(3) 1st Stage Turbine Wheels, P/N 23062376, prior to 11,600 CSN.

(4) 2nd Stage Turbine Wheels, P/N 23063462, identified by S/N's in Table 10 of Rolls-Royce ASB No. AE 2100A–A–72–191, dated December 17, 1998, prior to 10,000 CSN.

(5) 2nd Stage Turbine Wheels, P/N 23063462, not identified by S/N's in Rolls-Royce ASB No. AE 2100A–A–72–191, dated December 17, 1998, prior to 12,400 CSN.

(6) 2nd Stage Turbine Wheels, P/N 23064822, prior to 12,400 CSN.

(7) 1st Stage Turbine Wheels, P/N 23065891, identified by S/N's in Table 9 of Rolls-Royce ASB No. AE 2100A–A–72–191, dated December 17, 1998, prior to 10,000 CSN.

(8) 2nd Stage Turbine Wheels, P/N 23065892, identified by S/N's in Table 10 of Rolls-Royce ASB No. AE 2100A–A–72–191, dated December 17, 1998, prior to 10,000 CSN.

(9) 2nd Stage Turbine Wheels, P/N 23065892, not identified by S/N's in Rolls-Royce ASB No. AE 2100A–A–72–191, dated December 17,1998, prior to 12, 400 CSN.

(10) 1st Stage Turbine Wheels, P/N 23066791, prior to 11,600 CSN.

Note 2: Rolls-Royce ASB No. AE 2100A–A–72–191, dated December 17, 1998, provides information concerning specific S/N wheels and their cyclic life limits.

(b) Remove from service the following turbine wheels installed in AE 2100C series engines prior to exceeding new, reduced cyclic life limits and replace with serviceable parts as follows:

(1) 4th Stage Turbine Wheels, P/N 23053358, prior to 8,900 CSN.

(2) 1st Stage Turbine Wheels, P/N 23062373, identified by S/N's in Table 9 of Rolls-Royce ASB No. AE 2100C–A–72–141, dated December 17, 1998, prior to 10,000 CSN.

(3) 2nd Stage Turbine Wheels, P/N 23063462, identified by S/N's in Table 10 of Rolls-Royce ASB No. AE 2100C–A–72–141, dated December 17, 1998, prior to 10,000 CSN.

(4) 2nd Stage Turbine Wheels, P/N 23063462, not identified by S/N's in Rolls-Royce ASB No. AE 2100C–A–72–141, dated December 17, 1998, prior to 12,400 CSN.

(5) 1st Stage Turbine Wheels, P/N 23065891, identified by S/N's in Table 9 of Rolls-Royce ASB No. AE 2100C–A–72–141, dated December 17, 1998, prior to 10,000 CSN.

(6) 2nd Stage Turbine Wheels, P/N 23065892, identified by S/N's in Table 10 of Rolls-Royce ASB No. AE 2100C–A–72–141, dated December 17, 1998, prior to 10,000 CSN.

(7) 2nd Stage Turbine Wheels, P/N 23065892, not identified by S/N's in Rolls-Royce ASB No. AE 2100C–A–72–141, dated December 17, 1998, prior to 12,400 CSN.

Note 3: Rolls-Royce ASB No. AE 2100C–A–72–141, dated December 17, 1998, provides information concerning specific S/N wheels and their cyclic life limits.

(c) Remove from service the following turbine wheels installed in AE 2100D3 series engines prior to exceeding new, reduced cyclic life limits and replace with serviceable parts as follows:

(1) 4th Stage Turbine Wheels, P/N 23053358, identified by S/N's in Table 12 of Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 2,160 CSN.

(2) 3rd Stage Turbine Wheels, P/N 23059878, identified by S/N's in Table 11 of Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 2,160 CSN.

(3) 1st Stage Turbine Wheels, P/N 23062373, identified by S/N's in Table 9 of Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 2,160 CSN.

(4) 1st Stage Turbine Wheels, P/N 23062376, prior to 8,400 CSN.

(5) 2nd Stage Turbine Wheels, P/N 23063462, identified by S/N's in Table 10 of Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 2,160 CSN.

(6) 2nd Stage Turbine Wheels, P/N 23063462, not identified by S/N's in Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 7,500 CSN.

(7) 2nd Stage Turbine Wheels, P/N 23064473, identified by S/N's in Table 10 of Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 2,160 CSN.

(8) 2nd Stage Turbine Wheels, P/N 23064473, not identified by S/N's in Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 6,700 CSN.

(9) 2nd Stage Turbine Wheels, P/N 23064474, prior to 7,500 CSN.

(10) 1st Stage Turbine Wheels, P/N 23065891, identified by S/N's in Table 9 of Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 2,160 CSN.

(11) 2nd Stage Turbine Wheels, P/N 23065892, identified by S/N's in Table 10 of Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 2,160 CSN.

(12) 2nd Stage Turbine Wheels, P/N 23065892, not identified by S/N's in Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, prior to 7,500 CSN.

(13) 2nd Stage Turbine Wheels, P/N 23068072, prior to 7,500 CSN.

Note 4: Rolls-Royce ASB No. AE 2100D3–A–72–130, dated December 17, 1998, provides information concerning specific serial number wheels and their cyclic life limits.

(d) This AD establishes new cyclic life limits for the turbine wheels identified in paragraphs (a), (b), and (c) of this AD. Except in accordance with paragraph (e) of this AD, no alternative life limits may be approved for the turbine wheels identified in paragraphs (a), (b), and (c) of this AD.

(e) 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, Chicago Aircraft Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note 5: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

(f) The actions required by this AD shall be done in accordance with the following Rolls-Royce ASB's:

Document No.	Pages	Date
AE 2100A–A–72–191.	1–8	Dec. 17, 1998.
AE 2100C–A–72–141.	1–8	Dec. 17, 1998.
AE 2100D3–A–72–130.	1–8	Dec. 17, 1998.
Total pages: 8.		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Allison Engine Company, Inc., P.O. Box 420, Speed Code U–15, Indianapolis, IN 46206–0420, telephone (317) 230–6674. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on February 19, 1999.

Issued in Burlington, Massachusetts, on January 28, 1999.

Mark C. Fulmer,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–2494 Filed 2–3–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29454; Amdt. No. 1911]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination

1. FFA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

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

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

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

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

The Rule

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

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

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

List of Subjects in 14 CFR part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on January 22, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

** * * Effective February 25, 1999*

Victorville, CA, Southern California Intl, VOR/DME RWY 17, Orig
Newton, IA, Newton Muni, GPS RWY 14 Orig
Newton, IA, Newton Muni, GPS RWY 32, Orig
East Hampton, NY, East Hampton, VOR OR GPS–A, Amdt 10
East Hampton, NY, East Hampton, VOR/DME RNAV OR GPS RWY 10, Amdt 6
East Hampton, NY, East Hampton, VOR/DME RNAV OR GPS RWY 28, Amdt 3
Fulton, NY, Oswego County, VOR OR GPS RWY 33, Amdt 4
Philadelphia, PA, Philadelphia Intl. VOR/DME RNAV OR GPS RWY 17, Amdt 4, CANCELLED

** * * Effective March 25, 1999*

Cold Bay, AK, Cold Bay, VOR RWY 14, Amdt 13
Cold Bay, AK, Cold Bay, VOR/DME OR TACAN OR GPS–A, Amdt 1
Cold Bay, AK, Cold Bay, LOC/DME BC RWY 32, Amdt 7
Cold Bay, AK, Cold Bay, NDB RWY 14, Amdt 11
Cold Bay, AK, Cold Bay, ILS RWY 14, Amdt 16
Cold Bay, AK, Cold Bay, MLS RWY 32, Orig
Cold Bay, AK, Cold Bay, GPS RWY 14, Orig
Cold Bay, AK, Cold Bay, GPS RWY 32, Orig
Carlsbad, CA, McClellan-Palomar, VOR OR GPS–A, Amdt 7
El Monte, CA, El Monte, VOR OR GPS–A, Amdt 7
El Monte, CA, El Monte, VOR/DME OR, GPS–B, Amdt 3
El Monte, CA, El Monte, NDB OR GPS–C, Amdt 1
Los Angeles, CA, Los Angeles Intl, ILS RWY 25R, Amdt 13
Modesto, CA, Modesto City-County-Harry Sham Field, VOR/DME RWY 28R, Orig
Modesto, CA, Modesto City-County-Harry Sham Field, VOR RWY 28R, Amdt 11
Modesto, CA, Modesto City-County-Harry Sham Field, NDG RWY 28R, Amdt 8
Modesto, CA, Modesto City-County-Harry Sham Field, ILS RWY 28R, Amdt 13
Stockton, CA, Stockton Metropolitan, GPS RWY 29R, Orig
Guthrie Center, IA, Guthrie County Regional, NDB RWY 18, Orig
Guthrie Center, IA, Guthrie County Regional, GPS RWY 36, Orig
Concordia, KS, Blosser Muni, NDB–A, Orig
Concordia, KS, Blosser Muni, NDB OR GPS RWY 17, Amdt 1A, CANCELLED
Concordia, KS, Blosser Muni, GPS RWY 17, Orig
Concordia, KS, Blosser Muni, GPS RWY 35, Orig
St. Paul, MN, ST. Paul Downtown Holman Field, ILS RWY 32, Amdt 4
Linden, NJ, Linden, VOR OR GPS–C, Orig-B, CANCELLED
Linden, NJ, Linden, VOR/DME OR GPS–D, Orig-B, CANCELLED
Linden, NJ, Linden, GPS–A, Orig
Malone, NY, Malone-Dufort, VOR/DME–A, Amdt 1
Malone, NY, Malone-Dufort, GPS RWY 5, Orig
Malone, NY, Malone-Dufort, GPS RWY 23, Orig
Roxboro, NC, Person County, LOC RWY 6, Amdt 2, CANCELLED
Roxboro, NC, Person County, NDB OR GPS RWY 6, Amdt 3
Roxboro, NC, Person County, ILS RWY 6, Orig
Roxboro, NC, Person County, GPS RWY 6, Orig
Wilmington, NC, Wilmington Intl, LOC BC RWY 17, Amdt 7
Fargo, ND, Hector Intl, VOR/DME RNAV OR GPS RWY 13, Amdt 6, CANCELLED
Carlisle, PA, Carlisle, VOR/DME OR GPS–A, Amdt 1A, CANCELLED
Carlisle, PA, Carlisle, NDB OR GPS RWY 28, Amdt 2A, CANCELLED
Carlisle, PA, Carlisle, VOR–A, Orig
Carlisle, PA, Carlisle, NDB–B, Orig
Chester, SC, Chester, SC, GPS RWY 17, Orig
Chester, SC, Chester, SC, GPS RWY 35, Orig
North Myrtle Beach, SC, Grand Strand, GPS RWY 5, Orig
North Myrtle Beach, SC, Grand Strand, GPS RWY 23, Orig
San Angelo, TX, Mathis Field, LOC BC RWY 21, Amdt 14
San Angelo, TX, Mathis Field, NDB RWY 3, Amdt 14
San Angelo, TX, Mathis Field, VOR RWY 21, Amdt 16
San Angelo, TX, Mathis Field, ILS RWY 3, Amdt 21
San Angelo, TX, Mathis Field, RADAR–1, Amdt 1
San Angelo, TX, Mathis Field, GPS RWY 3, Orig
San Angelo, TX, Mathis Field, GPS RWY 21, Orig
Seattle, WA, Boeing Field/King Country Intl, LOC CB RWY 31L, Amdt 10, CANCELLED

[FR Doc, 99–2657 Filed 2–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Florfenicol Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Schering-Plough Animal Health Corp. The supplemental NADA provides for subcutaneous use of florfenicol injectable solution for control of respiratory disease in cattle at high risk of developing bovine respiratory disease (BRD).

EFFECTIVE DATE: February 4, 1999.

FOR FURTHER INFORMATION CONTACT: William T. Flynn, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7570.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 1095 Morris Ave., P.O. Box 1982, Union, NJ

07083–1982, is sponsor of NADA 141–063 that provides for veterinary prescription use of Nuflor® Injectable Solution (florfenicol) for treatment of cattle for BRD. The firm filed a supplemental NADA that provides for veterinary prescription use of Nuflor® Injectable Solution (florfenicol) by a single subcutaneous injection for control of respiratory disease in cattle at high risk of developing BRD associated with *Pasteurella haemolytica*, *P. multocida*, and *Haemophilus somnus*. The supplemental NADA is approved as of December 17, 1998, and the regulations are amended by revising 21 CFR 522.955(d)(1) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this supplement may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under 21 U.S.C. 360b(c)(2)(F)(iii), this supplemental approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning December 17, 1998, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval and conducted or sponsored by the applicant. Three years marketing exclusivity is limited to subcutaneous use of the drug for control of respiratory disease in cattle at high risk of developing BRD associated with *P. haemolytica*, *P. multocida*, and *H. somnus*.

The agency has determined under 21 CFR 25.33(d)(5) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

2. Section 522.955 is amended by revising paragraph (d)(1)(i), by redesignating paragraph (d)(1)(ii) as paragraph (d)(1)(i)(B), and by adding paragraphs (d)(1)(ii)(A) and (d)(1)(ii)(B) to read as follows:

§ 522.955 Florfenicol solution.

* * * * *

(d) * * *

(1) * * *

(i) *Treatment of disease*—(A) *Amount*. 20 milligrams per kilogram of body weight (3 milliliters per 100 pounds) as an intramuscular injection. A second dose should be given 48 hours later. Alternatively, 40 milligrams per kilogram of body weight (6 milliliters per 100 pounds) as a single subcutaneous injection may be used.

(B) *Indications for use*. * * *

(ii) *Control of disease*—(A) *Amount*. 40 milligrams per kilogram of body weight (6 milliliters per 100 pounds) as a single subcutaneous injection.

(B) *Indications for use*. For control of respiratory disease in cattle at high risk of developing bovine respiratory disease (BRD) associated with *Pasteurella haemolytica*, *P. multocida*, and *Haemophilus somnus*.

* * * * *

Dated: January 13, 1999.

Andrew J. Beaulieu,

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

[FR Doc. 99–2686 Filed 2–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Methylene Disalicylate and Roxarsone With Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Alpharma Inc. The supplemental NADA provides for using approved single ingredient bacitracin methylene disalicylate (BMD), monensin, and roxarsone Type A medicated articles to make an additional use level of BMD in Type C medicated broiler chicken feeds.

EFFECTIVE DATE: February 4, 1999.

FOR FURTHER INFORMATION CONTACT: Estella Z. Jones, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7575.

SUPPLEMENTARY INFORMATION: Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed supplemental NADA 116–088 that provides for combining approved BMD® (10, 25, 30, 50, 60, or 75 grams per pound (g/lb) BMD), Coban® (45 or 60 g/lb monensin sodium), and 3–Nitro® (45.4, 90, 227, or 360 g/lb roxarsone) Type A medicated articles to make Type C medicated broiler chicken feeds containing 100 to 200 g/ton(t) BMD, 90 to 110 g/t monensin sodium, and 22.7 to 45.4 g/t roxarsone. The BMD, monensin, and 22.7 to 34 g/t roxarsone Type C medicated feeds are used as an aid in the control of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to BMD; as an aid in the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*; and for increased rate of weight gain and improved feed efficiency. The BMD, monensin, and 22.7 to 45.4 g/t roxarsone Type C medicated feeds are used as an aid in the control of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to BMD; as an aid in the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*; and for increased rate of weight gain. The supplemental NADA is approved as of December 24, 1998, and the regulations are amended in 21 CFR 558.355 by revising paragraph (b)(11) and adding paragraphs (f)(1)(xxvi) and (f)(1)(xxvii) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of the application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a

type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.355 is amended in paragraph (b)(11) by deleting ''and (xxv)'' and adding in its place ''(xxv), (xxvi), and (xxvii)'' and by adding paragraphs (f)(1)(xxvi) and (f)(1)(xxvii) to read as follows:

§ 558.355 Monensin.

* * * * *

(f) * * *

(1) * * *

(xxvi) *Amount per ton.* Monensin 90 to 110 grams plus bacitracin 100 to 200 grams and roxarsone 22.7 to 34.0 grams.

(*a*) *Indications for use.* As an aid in the control of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin methylene disalicylate; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati*; for increased rate of weight gain and improved feed efficiency.

(*b*) *Limitations.* For broiler chickens only. Feed continuously as sole ration. Use as sole source of organic arsenic. Withdraw 5 days before slaughter. Do not feed to laying hens. To control necrotic enteritis, start medication at first clinical signs of disease. The dosage range permitted provides for different levels based on the severity of infection. Use continuously for 5 to 7 days or as long as clinical signs persist, then reduce dosage to prevention level. Animals should have access to drinking water at all times. Drug overdosage or lack of water may result in leg weakness. As roxarsone and bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter.

(xxvii) *Amount per ton.* Monensin 90 to 110 grams plus bacitracin 100 to 200 grams and roxarsone 22.7 to 45.4 grams.

(*a*) *Indications for use.* As an aid in the control of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to bacitracin methylene disalicylate; as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati*; for increased rate of weight gain.

(*b*) *Limitations.* For broiler chickens only. Feed continuously as sole ration. Use as sole source of organic arsenic. Withdraw 5 days before slaughter. Do not feed to laying hens. To control necrotic enteritis, start medication at first clinical signs of disease. The dosage range permitted provides for different levels based on the severity of infection. Use continuously for 5 to 7 days or as long as clinical signs persist, then reduce dosage to prevention level. Animals should have access to drinking water at all times. Drug overdosage or lack of water may result in leg weakness. As roxarsone and bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter.

* * * * *

Dated: January 13, 1999.

Andrew J. Beaulieu,

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

[FR Doc. 99–2687 Filed 2–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8816]

RIN 1545–AW62

Roth IRAs

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to Roth IRAs under section 408A of the Internal Revenue Code (Code). Roth IRAs were created by the Taxpayer Relief Act of 1997 as a new type of IRA that individuals can use beginning in 1998. Section 408A was amended by the Internal Revenue Service Restructuring and Reform Act of 1998. On September 3, 1998, a notice of proposed rulemaking was published in the **Federal Register** (63 FR 46937) under Code section 408A. Written comments were received regarding the proposed regulations. On December 10, 1998, a public hearing was held on the proposed regulations. The final regulations affect individuals establishing Roth IRAs, beneficiaries under Roth IRAs, and trustees, custodians or issuers of Roth IRAs.

DATES: *Effective date:* The final regulations are effective on February 3, 1999.

Applicability date: The final regulations are applicable to taxable years beginning on or after January 1, 1998, the effective date for section 408A.

FOR FURTHER INFORMATION CONTACT: Cathy A. Vohs, (202) 622–6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in §§ 1.408A–2, 1.408A–4, 1.408A–5, and 1.408A–7 of the final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1616. Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Estimated average annual burden per respondent/recordkeeper: 1 minute for designating an IRA as a Roth IRA and 30 minutes for recharacterizing an IRA contribution. The estimated burdens for the other reporting/recordkeeping requirements in the these final regulations are reflected in the burden of Forms 8606, 1040, 5498, and 1099R.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On September 3, 1998, a notice of proposed rulemaking was published in the **Federal Register** (63 FR 46937) under section 408A of the Internal

Revenue Code (Code). The proposed regulations provide guidance on section 408A of the Code, which was added by section 302 of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788), and established the Roth IRA as a new type of individual retirement plan, effective for taxable years beginning on or after January 1, 1998. The provisions of section 408A were amended by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685). In addition, Notice 98–50 (1998–44 I.R.B. 10) provides guidance on reconverting an amount that had previously been converted and recharacterized. This notice solicited public comments concerning reconversions.

Written comments were received on the proposed regulations and Notice 98–50. A public hearing was held on the proposed regulations and Notice 98–50 on December 10, 1998. After consideration of all the comments, the proposed regulations under section 408A are adopted as revised by this Treasury decision.

Explanation of Provisions

Overview

A Roth IRA generally is treated under the Code like a traditional IRA with several significant exceptions. Similar to traditional IRAs, income on undistributed amounts accumulated under Roth IRAs is exempt from Federal income tax, and contributions to Roth IRAs are subject to specific limitations. Unlike traditional IRAs, contributions to Roth IRAs cannot be deducted from gross income, but qualified distributions from Roth IRAs are excludable from gross income.

In general, comments received on the proposed regulations did not request significant changes. Thus, the final regulations retain the general structure and substance of the proposed regulations.

General Provisions and Establishment of Roth IRAs

Commentators asked for clarification regarding whether a Roth IRA may be established for the benefit of a minor child or anyone else who lacks the legal capacity to act on his or her own behalf. On this point, the IRS and Treasury intend that the rules for traditional IRAs also apply to Roth IRAs. Thus, for example, a parent or guardian of a minor child may establish a Roth IRA on behalf of the minor child. However, in the case of any contribution to a Roth IRA established for a minor child, the compensation of the child for the taxable year for which the contribution is made must satisfy the compensation requirements of section 408A(c) and § 1.408A–3.

Regular Contributions

Several commentators requested clarification of the treatment of excess Roth IRA contributions under sections 4973, 408(d)(5), and 219(f)(6). Commentators asked for clarification regarding the removal of excess Roth IRA contributions after the contributor's Federal tax return due date has passed. The final regulations clarify that, pursuant to section 4973(f), excess contributions may be applied, on a year-by-year basis, against the annual limit for regular contributions to the extent that the Roth IRA owner is eligible to make regular Roth IRA contributions for a taxable year but does not otherwise do so. However, in response to several requests for clarification, the IRS and Treasury note that the rules under section 408(d)(5) for the tax-free distribution of certain excess traditional IRA contributions after the IRA owner's Federal income tax return due date do not apply to Roth IRAs because Roth IRA contributions are always tax-free on distribution (except to the extent that they accelerate income inclusion under the 4-year spread). Similarly, section 219(f)(6), which provides for the deductibility of excess traditional IRA contributions in subsequent taxable years, has no application to Roth IRAs because contributions to Roth IRAs are never deductible.

Another commentator asked for clarification whether contributions to education IRAs are disregarded for purposes of applying the limitation on regular contributions to Roth IRAs. No change has been made to the final regulations on this point because the final regulations retain the definition of an IRA provided in the proposed regulations, which excludes an education IRA under section 530. Thus, contributions to an education IRA are disregarded in applying the Roth IRA contribution limitation (and in applying the contribution limitation for traditional IRAs).

Conversions

In response to certain comments, the final regulations clarify that conversions and recharacterizations made with the same trustee may be accomplished by redesignating the account or annuity contract, rather than by the opening of a new account or the issuance of a new annuity contract for each conversion or recharacterization.

As requested by commentators, the final regulations provide that a change in filing status or a divorce does not affect the application of the 4-year spread for 1998 conversions. Thus, if a married Roth IRA owner who is using the 4-year spread files separately or divorces before the full taxable conversion amount has been included in gross income, the remainder must be included in the Roth IRA owner's gross income over the remaining years in the 4-year period, or, if applicable, in the year for which the remainder is accelerated due to distribution or death.

Two commentators questioned why the proposed regulations require that a surviving spouse be the sole beneficiary of all a Roth IRA owner's Roth IRAs in order to elect to continue application of the 4-year spread after the Roth IRA owner's death. The IRS and Treasury view this result as compelled by the statutory language of section 408A(d)(3)(E)(ii)(II). That section provides that the surviving spouse must acquire the ''entire interest'' in any Roth IRA to which a conversion contribution to which the 4-year spread applies is ''properly allocable.'' Under the aggregation and ordering rules of section 408A(d)(4), all a Roth IRA owner's Roth IRAs are treated as a single Roth IRA, and a conversion contribution is therefore allocable to all the owner's Roth IRAs. Thus, a surviving spouse must be the sole beneficiary of all a Roth IRA owner's Roth IRAs in order to acquire the entire interest in any Roth IRA to which a 1998 conversion contribution is properly allocable.

Commentators also asked the IRS and Treasury to clarify whether Roth IRA distributions that are part of a series of substantially equal periodic payments begun under a traditional IRA prior to conversion to a Roth IRA are subject to income acceleration during the 4-year spread period and the 10-percent additional tax on early distributions under section 72(t). The final regulations clarify that those distributions are subject to income acceleration to the extent allocable to a 1998 conversion contribution with respect to which the 4-year spread applies. The final regulations further clarify, however, that the additional 10-percent tax under section 72(t) will not apply, even if the distributions are not qualified distributions (as long as they are part of a series of substantially equal periodic payments).

Under the proposed regulations, if an IRA owner has reached age 70½, any amount distributed (or treated as distributed because of a conversion) from the IRA for a year consists of the required minimum distribution to the extent that an amount equal to the required minimum distribution for that year has not yet been distributed (or

treated as distributed); as a required minimum distribution, that amount cannot be converted to a Roth IRA. Although one commentator requested that this rule be retained in the final regulations, other commentators objected to it. A number of commentators asked the IRS and Treasury to adopt a rule allowing an IRA owner who wishes to convert a traditional IRA to a Roth IRA in the year he or she turns 70½ to leave the amount of his or her required minimum distribution with respect to such IRA in the IRA until April 1 of the following year, provided the conversion is accomplished by means of a trustee-to-trustee transfer. The commentators note that this rule applies in the case of trustee-to-trustee transfers between traditional IRAs. The final regulations retain the rule that the required minimum distribution amount is ineligible for rollover, including such a distribution for the year that the individual reaches age 70½, because, pursuant to section 408A(d)(3)(C), a conversion is treated as a distribution regardless of whether the conversion is accomplished by a trustee-to-trustee transfer. Accordingly, the required minimum distribution amount is ineligible for rollover, and as such, is also ineligible to be converted to a Roth IRA.

Additionally, several commentators suggested that the rule in the proposed regulations is inconsistent with section 401(a)(9), which generally requires that IRA distributions begin by April 1 of the calendar year following the calendar year in which the IRA owner reaches age 70½. These commentators argued that, under section 401(a)(9), distributions made during the calendar year in which the IRA owner reaches age 70½ should not be considered required minimum distributions under sections 401(a)(9) and 408(a)(6) and (b)(3). However, the proposed regulations under sections 401(a)(9) and 408(a)(6) and (b)(3) provide that the first year for which distributions are required under section 401(a)(9) is the year in which the IRA owner reaches age 70½, and that distributions made prior to April 1 of the following calendar year are treated as made for that first year. The regulations under section 402(c) and the proposed regulations under sections 401(a)(9) and 408(a)(6) and (b)(3) provide that the first amount distributed during a calendar year is treated as a required minimum distribution to the extent that the amount required to be distributed for that calendar year under section 401(a)(9) has not been distributed. For these reasons, the final regulations retain the rule of the proposed regulations.

Recharacterizations of IRA Contributions

The final regulations clarify that the computation of net income under § 1.408–4(c)(2)(iii) in the case of a commingled IRA may include net losses on the amount to be recharacterized.

Commentators asked the IRS and Treasury to clarify whether an amount converted from a SEP IRA or SIMPLE IRA to a Roth IRA may be recharacterized back to the SEP IRA or SIMPLE IRA from which the amount was converted. The final regulations provide that Roth IRA conversion contributions from a SEP IRA or SIMPLE IRA may be recharacterized to a SEP IRA or SIMPLE IRA (including the original SEP IRA or SIMPLE IRA). Another commentator also asked for clarification whether it is necessary to track the source of assets (i.e., as employer or employee contributions) converted from a SEP IRA or SIMPLE IRA to a Roth IRA for purposes of determining whether such assets may be recharacterized. The prohibition on recharacterizing employer contributions to a SEP IRA or SIMPLE IRA set forth in the final regulations only applies to those contributions at the time they are made to the SEP IRA or SIMPLE IRA. Once such contributions have been made to a SEP IRA or a SIMPLE IRA, the SEP IRA or SIMPLE IRA may be converted to a Roth IRA and subsequently recharacterized (provided, in the case of a SIMPLE IRA, that the two-year rule has been satisfied prior to the conversion).

Commentators asked for clarification regarding whether an election to recharacterize an IRA contribution may be made on behalf of a deceased IRA owner. The final regulations provide that the election to recharacterize an IRA contribution may be made by the executor, administrator, or other person charged with the duty of filing the decedent's final Federal income tax return.

Commentators also asked whether an excess contribution to an IRA made in a prior year, and applied against the contribution limits in the current year under section 4973, may be recharacterized. Only actual contributions may be recharacterized; thus, excess contributions actually made for a prior year and deemed to be current-year contributions for purposes of section 4973, are not contributions that are eligible to be recharacterized (unless the recharacterization would still be timely with respect to the taxable year for which the contributions were actually made). This rule applies to any excess contribution, whether made to a traditional or a Roth IRA.

Commentators asked for clarification regarding a conduit IRA that is converted to a Roth IRA and subsequently recharacterized back to a traditional IRA. The IRS and Treasury note that a conduit IRA that is converted to a Roth IRA and subsequently recharacterized back to a traditional IRA retains its status as a conduit IRA because the effect of the recharacterization is to treat the amount recharacterized as though it had been transferred directly from the original conduit IRA into another conduit IRA.

Commentators also asked whether a recharacterization is subject to withholding. A recharacterization is not a designated distribution under section 3405 and, therefore, is not subject to withholding.

The final regulations also provide rules regarding the ''reconversion'' of an amount that has been transferred from a Roth IRA to a traditional IRA by means of a recharacterization after having been earlier converted from a traditional IRA to a Roth IRA. After publication of the proposed regulations, the IRS and Treasury issued Notice 98–50, which provides interim rules regarding Roth IRA reconversions made during 1998 and 1999. Notice 98–50 stated that the interim rules were intended to clarify and supplement the proposed regulations and permitted taxpayers to rely on those rules as if incorporated in the proposed regulations. Notice 98–50 noted that the IRS and Treasury were considering whether the final regulations should provide that a taxpayer is not eligible to reconvert an amount before the end of the taxable year in which the amount was first converted (or the due date for that taxable year), or that a taxpayer who transfers a converted amount back to a traditional IRA in a recharacterization must wait until the passage of a fixed number of days before reconverting. Although Notice 98–50 invited interested parties to submit comments on those approaches, little comment was received on that issue. The final regulations provide reconversion rules for 2000 and subsequent years that generally differ from the interim rules of Notice 98–50. However, for 1998 and 1999, the final regulations continue the interim rules of Notice 98–50.

Effective January 1, 2000, an IRA owner who converts an amount from a traditional IRA to a Roth IRA during any taxable year and then transfers that amount back to a traditional IRA by means of a recharacterization may not

reconvert that amount from the traditional IRA to a Roth IRA before the beginning of the taxable year following the taxable year in which the amount was converted to a Roth IRA or, if later, the end of the 30-day period beginning on the day on which the IRA owner transfers the amount from the Roth IRA back to a traditional IRA by means of a recharacterization. As under Notice 98–50, any amount previously converted is adjusted for subsequent net income in determining the amount subject to the limitation on subsequent reconversions.

A reconversion made before the later of the beginning of the next taxable year or the end of the 30-day period that begins on the day of the recharacterization is treated as a ''failed conversion'' (a distribution from the traditional IRA and a regular contribution to the Roth IRA), subject to correction through a recharacterization back to a traditional IRA. For these purposes, only a failed conversion resulting from a failure to satisfy the statutory requirements for a conversion (e.g., the $100,000 modified adjusted gross income limit) is treated as a conversion in determining when an IRA owner may make a reconversion. Thus, an IRA owner whose taxable year is the calendar year and who converts an amount to a Roth IRA in 2000 and then transfers that amount back to a traditional IRA on January 18, 2001 because his or her adjusted gross income for 2000 exceeds $100,000 cannot reconvert that amount until February 17, 2001 (the first day after the end of the 30-day period beginning on the day of the recharacterization transfer) because the failed conversion made in 2000 is treated as a conversion for purposes of the reconversion rules. However, if that IRA owner inadvertently attempts to reconvert that amount before February 17, 2001, the attempted reconversion is not treated as a conversion for purposes of the reconversion rules (although it is otherwise treated as a failed conversion). Therefore, the IRA owner could transfer the amount back to a traditional IRA in a recharacterization and reconvert it at any time on or after February 17, 2001. If the IRA owner does reconvert the amount on or after February 17, 2001, he or she cannot reconvert that amount again until 2002.

As indicated above, the final regulations continue the interim rules of Notice 98–50 applicable for 1998 and 1999. Therefore, an IRA owner who converts an amount from a traditional IRA to a Roth IRA during 1998 and then transfers that amount back to a traditional IRA by means of a recharacterization may reconvert that amount once (but no more than once) on or after November 1, 1998 and on or before December 31, 1998; the IRA owner may also reconvert that amount once (but no more than once) during 1999. Similarly, an IRA owner who converts an amount from a traditional IRA to a Roth IRA during 1999 that has not been converted before and then transfers that amount back to a traditional IRA by means of a recharacterization may reconvert that amount once (but no more than once) on or before December 31, 1999. In contrast to the rule for years after 1999, a failed conversion is not treated as a conversion for these 1998 and 1999 interim rules.

As did Notice 98–50, the final regulations provide that a reconversion made during 1998 or 1999 for which the IRA owner was not eligible is deemed to be an ''excess reconversion'' and does not change the IRA owner's taxable conversion amount. Instead, the excess reconversion and the last preceding recharacterization are not taken into account for purposes of determining the IRA owner's taxable conversion amount, and the IRA owner's taxable conversion amount is based on the last reconversion that was not an excess reconversion. An excess reconversion is otherwise treated as a valid reconversion. The final regulations grandfather conversions and reconversions made before November 1, 1998.

Distributions

In response to concerns raised in the comments regarding potential double taxation, the final regulations clarify that a nonqualified distribution from a Roth IRA is taxed only to the extent that the amount of the distribution, when added to all previous distributions (whether or not they were qualified distributions) and reduced by the taxable amount of such previous distributions, exceed the owner's contributions to all his or her Roth IRAs.

Commentators also asked for clarification regarding whether a beneficiary may aggregate his or her inherited Roth IRAs with other Roth IRAs maintained by such beneficiary. The final regulations provide that a beneficiary's inherited Roth IRA may not be aggregated with any other Roth IRA maintained by such beneficiary (except for other Roth IRAs that the beneficiary inherited from the same decedent), unless the beneficiary, as the spouse of the decedent and sole beneficiary of the Roth IRA, elects to treat the Roth IRA as his or her own.

In addition, commentators also asked for clarification regarding whether the 5-taxable year period for determining whether a distribution is a qualified distribution starts over for subsequent Roth IRA contributions if the entire account balance in a Roth IRA is distributed to the Roth IRA owner before he or she makes any other Roth IRA contributions. In such a case, the 5-taxable-year period does not start over. However, if an initial Roth IRA contribution is made to a Roth IRA that subsequently is revoked within 7 days, or if an initial Roth IRA contribution is recharacterized, the initial contribution does not start the 5-year period. The final regulations provide that an excess contribution that is distributed in accordance with section 408(d)(4) does not start the 5-year period.

One commentator questioned the rule in the proposed regulations providing that a distribution allocable to a conversion contribution is treated as made first from the portion (if any) that was includible in gross income as a result of the conversion. The IRS and Treasury note that this result is plainly compelled by section 408A(d)(4)(B)(ii). Another commentator inquired about the treatment of all conversions as designated distributions under section 3405; the commentator suggested that conversions effected by means of trustee-to-trustee transfers should not be treated as designated distributions subject to withholding. However, section 408A(d)(3) treats all Roth IRA conversions as distributions regardless of how they are effected.

Reporting Requirements

The final regulations retain the reporting rules set forth in the proposed regulations.

Effective Date

The final regulations are applicable to taxable years beginning on or after January 1, 1998, the effective date for section 408A.

Special Analyses

It has been determined that the final regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Further, it is hereby certified, pursuant to sections 603(a) and 605(b) of the Regulatory Flexibility Act, that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. The cost of the collection of information is insignificant because the primary reporting burden is on the individual

and not the small entity. Therefore the collection of information will not have a substantial economic impact. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information: The principal author of the final regulations is Cathy A. Vohs, Office of Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.408A–1 also issued under 26 U.S.C. 408A.
§ 1.408A–2 also issued under 26 U.S.C. 408A.
§ 1.408A–3 also issued under 26 U.S.C. 408A.
§ 1.408A–4 also issued under 26 U.S.C. 408A.
§ 1.408A–5 also issued under 26 U.S.C. 408A.
§ 1.408A–6 also issued under 26 U.S.C. 408A.
§ 1.408A–7 also issued under 26 U.S.C. 408A.
§ 1.408A–8 also issued under 26 U.S.C. 408A.
§ 1.408A–9 also issued under 26 U.S.C. 408A. * * *

Par. 2. Sections 1.408A–0 through 1.408A–9 are added to read as follows:

§ 1.408A–0 Roth IRAs; table of contents.

This table of contents lists the regulations relating to Roth IRAs under section 408A of the Internal Revenue Code as follows:

§ 1.408A–1 Roth IRAs in general.
§ 1.408A–2 Establishing Roth IRAs.
§ 1.408A–3 Contributions to Roth IRAs.
§ 1.408A–4 Converting amounts to Roth IRAs.
§ 1.408A–5 Recharacterized contributions.
§ 1.408A–6 Distributions.
§ 1.408A–7 Reporting.
§ 1.408A–8 Definitions.
§ 1.408A–9 Effective date.

§ 1.408A–1 Roth IRAs in general.

This section sets forth the following questions and answers that discuss the background and general features of Roth IRAs:

Q–1. What is a Roth IRA?

A–1. (a) A Roth IRA is a new type of individual retirement plan that individuals can use, beginning in 1998. Roth IRAs are described in section 408A, which was added by the Taxpayer Relief Act of 1997 (TRA 97), Public Law 105–34 (111 Stat. 788).

(b) Roth IRAs are treated like traditional IRAs except where the Internal Revenue Code specifies different treatment. For example, aggregate contributions (other than by a conversion or other rollover) to all an individual's Roth IRAs are not permitted to exceed $2,000 for a taxable year. Further, income earned on funds held in a Roth IRA is generally not taxable. Similarly, the rules of section 408(e), such as the loss of exemption of the account where the owner engages in a prohibited transaction, apply to Roth IRAs in the same manner as to traditional IRAs.

Q–2. What are the significant differences between traditional IRAs and Roth IRAs?

A–2. There are several significant differences between traditional IRAs and Roth IRAs under the Internal Revenue Code. For example, eligibility to contribute to a Roth IRA is subject to special modified AGI (adjusted gross income) limits; contributions to a Roth IRA are never deductible; qualified distributions from a Roth IRA are not includible in gross income; the required minimum distribution rules under section 408(a)(6) and (b)(3) (which generally incorporate the provisions of section 401(a)(9)) do not apply to a Roth IRA during the lifetime of the owner; and contributions to a Roth IRA can be made after the owner has attained age 70½.

§ 1.408A–2 Establishing Roth IRAs.

This section sets forth the following questions and answers that provide rules applicable to establishing Roth IRAs:

Q–1. Who can establish a Roth IRA?

A–1. Except as provided in A–3 of this section, only an individual can establish a Roth IRA. In addition, in order to be eligible to contribute to a Roth IRA for a particular year, an individual must satisfy certain compensation requirements and adjusted gross income limits (see § 1.408A–3 A–3).

Q–2. How is a Roth IRA established?

A–2. A Roth IRA can be established with any bank, insurance company, or other person authorized in accordance with § 1.408–2(e) to serve as a trustee with respect to IRAs. The document establishing the Roth IRA must clearly designate the IRA as a Roth IRA, and this designation cannot be changed at a later date. Thus, an IRA that is designated as a Roth IRA cannot later be treated as a traditional IRA. However, see § 1.408A–4 A–1(b)(3) for certain rules for converting a traditional IRA to a Roth IRA with the same trustee by redesignating the traditional IRA as a Roth IRA, and see § 1.408A–5 for rules for recharacterizing certain IRA contributions.

Q–3. Can an employer or an association of employees establish a Roth IRA to hold contributions of employees or members?

A–3. Yes. Pursuant to section 408(c), an employer or an association of employees can establish a trust to hold contributions of employees or members made under a Roth IRA. Each employee's or member's account in the trust is treated as a separate Roth IRA that is subject to the generally applicable Roth IRA rules. The employer or association of employees may do certain acts otherwise required by an individual, for example, establishing and designating a trust as a Roth IRA.

Q–4. What is the effect of a surviving spouse of a Roth IRA owner treating an IRA as his or her own?

A–4. If the surviving spouse of a Roth IRA owner treats a Roth IRA as his or her own as of a date, the Roth IRA is treated from that date forward as though it were established for the benefit of the surviving spouse and not the original Roth IRA owner. Thus, for example, the surviving spouse is treated as the Roth IRA owner for purposes of applying the minimum distribution requirements under section 408(a)(6) and (b)(3). Similarly, the surviving spouse is treated as the Roth IRA owner rather than a beneficiary for purposes of determining the amount of any distribution from the Roth IRA that is includible in gross income and whether the distribution is subject to the 10-percent additional tax under section 72(t).

§ 1.408A–3 Contributions to Roth IRAs.

This section sets forth the following questions and answers that provide rules regarding contributions to Roth IRAs:

Q–1. What types of contributions are permitted to be made to a Roth IRA?

A–1. There are two types of contributions that are permitted to be

made to a Roth IRA: regular contributions and qualified rollover contributions (including conversion contributions). The term regular contributions means contributions other than qualified rollover contributions.

Q–2. When are contributions permitted to be made to a Roth IRA?

A–2. (a) The provisions of section 408A are effective for taxable years beginning on or after January 1, 1998. Thus, the first taxable year for which contributions are permitted to be made to a Roth IRA by an individual is the individual's taxable year beginning in 1998.

(b) Regular contributions for a particular taxable year must generally be contributed by the due date (not including extensions) for filing a Federal income tax return for that taxable year. (See § 1.408A–5 regarding recharacterization of certain contributions.)

Q–3. What is the maximum aggregate amount of regular contributions an individual is eligible to contribute to a Roth IRA for a taxable year?

A–3. (a) The maximum aggregate amount that an individual is eligible to contribute to all his or her Roth IRAs as a regular contribution for a taxable year is the same as the maximum for traditional IRAs: $2,000 or, if less, that individual's compensation for the year.

(b) For Roth IRAs, the maximum amount described in paragraph (a) of this A–3 is phased out between certain levels of modified AGI. For an individual who is not married, the dollar amount is phased out ratably between modified AGI of $95,000 and $110,000; for a married individual filing a joint return, between modified AGI of $150,000 and $160,000; and for a married individual filing separately, between modified AGI of $0 and $10,000. For this purpose, a married individual who has lived apart from his or her spouse for the entire taxable year and who files separately is treated as not married. Under section 408A(c)(3)(A), in applying the phase-out, the maximum amount is rounded up to the next higher multiple of $10 and is not reduced below $200 until completely phased out.

(c) If an individual makes regular contributions to both traditional IRAs and Roth IRAs for a taxable year, the maximum limit for the Roth IRA is the lesser of—

(1) The amount described in paragraph (a) of this A–3 reduced by the amount contributed to traditional IRAs for the taxable year; and

(2) The amount described in paragraph (b) of this A–3. Employer contributions, including elective deferrals, made under a SEP or SIMPLE IRA Plan on behalf of an individual (including a self-employed individual) do not reduce the amount of the individual's maximum regular contribution.

(d) The rules in this A–3 are illustrated by the following examples:

Example 1. In 1998, unmarried, calendar-year taxpayer B, age 60, has modified AGI of $40,000 and compensation of $5,000. For 1998, B can contribute a maximum of $2,000 to a traditional IRA, a Roth IRA or a combination of traditional and Roth IRAs.

Example 2. The facts are the same as in *Example 1.* However, assume that B violates the maximum regular contribution limit by contributing $2,000 to a traditional IRA and $2,000 to a Roth IRA for 1998. The $2,000 to B's Roth IRA would be an excess contribution to B's Roth IRA for 1998 because an individual's contributions are applied first to a traditional IRA, then to a Roth IRA.

Example 3. The facts are the same as in *Example 1,* except that B's compensation is $900. The maximum amount B can contribute to either a traditional IRA or a Roth (or a combination of the two) for 1998 is $900.

Example 4. In 1998, unmarried, calendar-year taxpayer C, age 60, has modified AGI of $100,000 and compensation of $5,000. For 1998, C contributes $800 to a traditional IRA and $1,200 to a Roth IRA. Because C's $1,200 Roth IRA contribution does not exceed the phased-out maximum Roth IRA contribution of $1,340 and because C's total IRA contributions do not exceed $2,000, C's Roth IRA contribution does not exceed the maximum permissible contribution.

Q–4. How is compensation defined for purposes of the Roth IRA contribution limit?

A–4. For purposes of the contribution limit described in A–3 of this section, an individual's compensation is the same as that used to determine the maximum contribution an individual can make to a traditional IRA. This amount is defined in section 219(f)(1) to include wages, commissions, professional fees, tips, and other amounts received for personal services, as well as taxable alimony and separate maintenance payments received under a decree of divorce or separate maintenance. Compensation also includes earned income as defined in section 401(c)(2), but does not include any amount received as a pension or annuity or as deferred compensation. In addition, under section 219(c), a married individual filing a joint return is permitted to make an IRA contribution by treating his or her spouse's higher compensation as his or her own, but only to the extent that the spouse's compensation is not being used for purposes of the spouse making a contribution to a Roth IRA or a deductible contribution to a traditional IRA.

Q–5. What is the significance of modified AGI and how is it determined?

A–5. Modified AGI is used for purposes of the phase-out rules described in A–3 of this section and for purposes of the $100,000 modified AGI limitation described in § 1.408A–4 A–2(a) (relating to eligibility for conversion). As defined in section 408A(c)(3)(C)(i), modified AGI is the same as adjusted gross income under section 219(g)(3)(A) (used to determine the amount of deductible contributions that can be made to a traditional IRA by an individual who is an active participant in an employer-sponsored retirement plan), except that any conversion is disregarded in determining modified AGI. For example, the deduction for contributions to an IRA is not taken into account for purposes of determining adjusted gross income under section 219 and thus does not apply in determining modified AGI for Roth IRA purposes.

Q–6. Is a required minimum distribution from an IRA for a year included in income for purposes of determining modified AGI?

A–6. (a) Yes. For taxable years beginning before January 1, 2005, any required minimum distribution from an IRA under section 408(a)(6) and (b)(3) (which generally incorporate the provisions of section 401(a)(9)) is included in income for purposes of determining modified AGI.

(b) For taxable years beginning after December 31, 2004, and solely for purposes of the $100,000 limitation applicable to conversions, modified AGI does not include any required minimum distributions from an IRA under section 408(a)(6) and (b)(3).

Q–7. Does an excise tax apply if an individual exceeds the aggregate regular contribution limits for Roth IRAs?

A–7. Yes. Section 4973 imposes an annual 6-percent excise tax on aggregate amounts contributed to Roth IRAs that exceed the maximum contribution limits described in A–3 of this section. Any contribution that is distributed, together with net income, from a Roth IRA on or before the tax return due date (plus extensions) for the taxable year of the contribution is treated as not contributed. Net income described in the previous sentence is includible in gross income for the taxable year in which the contribution is made. Aggregate excess contributions that are not distributed from a Roth IRA on or before the tax return due date (with extensions) for the taxable year of the contributions are reduced as a deemed Roth IRA contribution for each

subsequent taxable year to the extent that the Roth IRA owner does not actually make regular IRA contributions for such years. Section 4973 applies separately to an individual's Roth IRAs and other types of IRAs.

§ 1.408A–4 Converting amounts to Roth IRAs.

This section sets forth the following questions and answers that provide rules applicable to Roth IRA conversions:

Q–1. Can an individual convert an amount in his or her traditional IRA to a Roth IRA?

A–1. (a) Yes. An amount in a traditional IRA may be converted to an amount in a Roth IRA if two requirements are satisfied. First, the IRA owner must satisfy the modified AGI limitation described in A–2(a) of this section and, if married, the joint filing requirement described in A–2(b) of this section. Second, the amount contributed to the Roth IRA must satisfy the definition of a qualified rollover contribution in section 408A(e) (i.e., it must satisfy the requirements for a rollover contribution as defined in section 408(d)(3), except that the one-rollover-per-year limitation in section 408(d)(3)(B) does not apply).

(b) An amount can be converted by any of three methods—

(1) An amount distributed from a traditional IRA is contributed (rolled over) to a Roth IRA within the 60-day period described in section 408(d)(3)(A)(i);

(2) An amount in a traditional IRA is transferred in a trustee-to-trustee transfer from the trustee of the traditional IRA to the trustee of the Roth IRA; or

(3) An amount in a traditional IRA is transferred to a Roth IRA maintained by the same trustee. For purposes of sections 408 and 408A, redesignating a traditional IRA as a Roth IRA is treated as a transfer of the entire account balance from a traditional IRA to a Roth IRA.

(c) Any converted amount is treated as a distribution from the traditional IRA and a qualified rollover contribution to the Roth IRA for purposes of section 408 and section 408A, even if the conversion is accomplished by means of a trustee-to-trustee transfer or a transfer between IRAs of the same trustee.

(d) A transaction that is treated as a failed conversion under § 1.408A–5 A–9(a)(1) is not a conversion.

Q–2. What are the modified AGI limitation and joint filing requirements for conversions?

A–2. (a) An individual with modified AGI in excess of $100,000 for a taxable year is not permitted to convert an amount to a Roth IRA during that taxable year. This $100,000 limitation applies to the taxable year that the funds are paid from the traditional IRA, rather than the year they are contributed to the Roth IRA.

(b) If the individual is married, he or she is permitted to convert an amount to a Roth IRA during a taxable year only if the individual and the individual's spouse file a joint return for the taxable year that the funds are paid from the traditional IRA. In this case, the modified AGI subject to the $100,000 limit is the modified AGI derived from the joint return using the couple's combined income. The only exception to this joint filing requirement is for an individual who has lived apart from his or her spouse for the entire taxable year. If the married individual has lived apart from his or her spouse for the entire taxable year, then such individual can treat himself or herself as not married for purposes of this paragraph, file a separate return and be subject to the $100,000 limit on his or her separate modified AGI. In all other cases, a married individual filing a separate return is not permitted to convert an amount to a Roth IRA, regardless of the individual's modified AGI.

Q–3. Is a remedy available to an individual who makes a failed conversion?

A–3. (a) Yes. See § 1.408A–5 for rules permitting a failed conversion amount to be recharacterized as a contribution to a traditional IRA. If the requirements in § 1.408A–5 are satisfied, the failed conversion amount will be treated as having been contributed to the traditional IRA and not to the Roth IRA.

(b) If the contribution is not recharacterized in accordance with § 1.408A–5, the contribution will be treated as a regular contribution to the Roth IRA and, thus, an excess contribution subject to the excise tax under section 4973 to the extent that it exceeds the individual's regular contribution limit. This is the result regardless of which of the three methods described in A–1(b) of this section applies to this transaction. Additionally, the distribution from the traditional IRA will not be eligible for the 4-year spread and will be subject to the additional tax under section 72(t) (unless an exception under that section applies).

Q–4. Do any special rules apply to a conversion of an amount in an individual's SEP IRA or SIMPLE IRA to a Roth IRA?

A–4. (a) An amount in an individual's SEP IRA can be converted to a Roth IRA on the same terms as an amount in any other traditional IRA.

(b) An amount in an individual's SIMPLE IRA can be converted to a Roth IRA on the same terms as a conversion from a traditional IRA, except that an amount distributed from a SIMPLE IRA during the 2-year period described in section 72(t)(6), which begins on the date that the individual first participated in any SIMPLE IRA Plan maintained by the individual's employer, cannot be converted to a Roth IRA. Pursuant to section 408(d)(3)(G), a distribution of an amount from an individual's SIMPLE IRA during this 2-year period is not eligible to be rolled over into an IRA that is not a SIMPLE IRA and thus cannot be a qualified rollover contribution. This 2-year period of section 408(d)(3)(G) applies separately to the contributions of each of an individual's employers maintaining a SIMPLE IRA Plan.

(c) Once an amount in a SEP IRA or SIMPLE IRA has been converted to a Roth IRA, it is treated as a contribution to a Roth IRA for all purposes. Future contributions under the SEP or under the SIMPLE IRA Plan may not be made to the Roth IRA.

Q–5. Can amounts in other kinds of retirement plans be converted to a Roth IRA?

A–5. No. Only amounts in another IRA can be converted to a Roth IRA. For example, amounts in a qualified plan or annuity plan described in section 401(a) or 403(a) cannot be converted directly to a Roth IRA. Also, amounts held in an annuity contract or account described in section 403(b) cannot be converted directly to a Roth IRA.

Q–6. Can an individual who has attained at least age 70½ by the end of a calendar year convert an amount distributed from a traditional IRA during that year to a Roth IRA before receiving his or her required minimum distribution with respect to the traditional IRA for the year of the conversion?

A–6. (a) No. In order to be eligible for a conversion, an amount first must be eligible to be rolled over. Section 408(d)(3) prohibits the rollover of a required minimum distribution. If a minimum distribution is required for a year with respect to an IRA, the first dollars distributed during that year are treated as consisting of the required minimum distribution until an amount equal to the required minimum distribution for that year has been distributed.

(b) As provided in A–1(c) of this section, any amount converted is treated as a distribution from a traditional IRA and a rollover contribution to a Roth

IRA and not as a trustee-to-trustee transfer for purposes of section 408 and section 408A. Thus, in a year for which a minimum distribution is required (including the calendar year in which the individual attains age 70½), an individual may not convert the assets of an IRA (or any portion of those assets) to a Roth IRA to the extent that the required minimum distribution for the traditional IRA for the year has not been distributed.

(c) If a required minimum distribution is contributed to a Roth IRA, it is treated as having been distributed, subject to the normal rules under section 408(d)(1) and (2), and then contributed as a regular contribution to a Roth IRA. The amount of the required minimum distribution is not a conversion contribution.

Q–7. What are the tax consequences when an amount is converted to a Roth IRA?

A–7. (a) Any amount that is converted to a Roth IRA is includible in gross income as a distribution according to the rules of section 408(d)(1) and (2) for the taxable year in which the amount is distributed or transferred from the traditional IRA. Thus, any portion of the distribution or transfer that is treated as a return of basis under section 408(d)(1) and (2) is not includible in gross income as a result of the conversion.

(b) The 10-percent additional tax under section 72(t) generally does not apply to the taxable conversion amount. But see § 1.408A–6 A–5 for circumstances under which the taxable conversion amount would be subject to the additional tax under section 72(t).

(c) Pursuant to section 408A(e), a conversion is not treated as a rollover for purposes of the one-rollover-per-year rule of section 408(d)(3)(B).

Q–8. Is there an exception to the income-inclusion rule described in A–7 of this section for 1998 conversions?

A–8. Yes. In the case of a distribution (including a trustee-to-trustee transfer) from a traditional IRA on or before December 31, 1998, that is converted to a Roth IRA, instead of having the entire taxable conversion amount includible in income in 1998, an individual includes in gross income for 1998 only one quarter of that amount and one quarter of that amount for each of the next 3 years. This 4-year spread also applies if the conversion amount was distributed in 1998 and contributed to the Roth IRA within the 60-day period described in section 408(d)(3)(A)(i), but after December 31, 1998. However, see § 1.408A–6 A–6 for special rules requiring acceleration of inclusion if an amount subject to the 4-year spread is distributed from the Roth IRA before 2001.

Q–9. Is the taxable conversion amount included in income for all purposes?

A–9. Except as provided below, any taxable conversion amount includible in gross income for a year as a result of the conversion (regardless of whether the individual is using a 4-year spread) is included in income for all purposes. Thus, for example, it is counted for purposes of determining the taxable portion of social security payments under section 86 and for purposes of determining the phase-out of the $25,000 exemption under section 469(i) relating to the disallowance of passive activity losses from rental real estate activities. However, as provided in § 1.408A–3 A–5, the taxable conversion amount (and any resulting change in other elements of adjusted gross income) is disregarded for purposes of determining modified AGI for section 408A.

Q–10. Can an individual who makes a 1998 conversion elect not to have the 4-year spread apply and instead have the full taxable conversion amount includible in gross income for 1998?

A–10. Yes. Instead of having the taxable conversion amount for a 1998 conversion included over 4 years as provided under A–8 of this section, an individual can elect to include the full taxable conversion amount in income for 1998. The election is made on Form 8606 and cannot be made or changed after the due date (including extensions) for filing the 1998 Federal income tax return.

Q–11. What happens when an individual who is using the 4-year spread dies, files separately, or divorces before the full taxable conversion amount has been included in gross income?

A–11. (a) If an individual who is using the 4-year spread described in A–8 of this section dies before the full taxable conversion amount has been included in gross income, then the remainder must be included in the individual's gross income for the taxable year that includes the date of death.

(b) However, if the sole beneficiary of all the decedent's Roth IRAs is the decedent's spouse, then the spouse can elect to continue the 4-year spread. Thus, the spouse can elect to include in gross income the same amount that the decedent would have included in each of the remaining years of the 4-year period. Where the spouse makes such an election, the amount includible under the 4-year spread for the taxable year that includes the date of the decedent's death remains includible in the decedent's gross income and is reported on the decedent's final Federal income tax return. The election is made on either Form 8606 or Form 1040, in accordance with the instructions to the applicable form, for the taxable year that includes the decedent's date of death and cannot be changed after the due date (including extensions) for filing the Federal income tax return for the spouse's taxable year that includes the decedent's date of death.

(c) If a Roth IRA owner who is using the 4-year spread and who was married in 1998 subsequently files separately or divorces before the full taxable conversion amount has been included in gross income, the remainder of the taxable conversion amount must be included in the Roth IRA owner's gross income over the remaining years in the 4-year period (unless accelerated because of distribution or death).

Q–12. Can an individual convert a traditional IRA to a Roth IRA if he or she is receiving substantially equal periodic payments within the meaning of section 72(t)(2)(A)(iv) from that traditional IRA?

A–12. Yes. Not only is the conversion amount itself not subject to the early distribution tax under section 72(t), but the conversion amount is also not treated as a distribution for purposes of determining whether a modification within the meaning of section 72(t)(4)(A) has occurred. Distributions from the Roth IRA that are part of the original series of substantially equal periodic payments will be nonqualified distributions from the Roth IRA until they meet the requirements for being a qualified distribution, described in § 1.408A–6 A–1(b). The additional 10-percent tax under section 72(t) will not apply to the extent that these nonqualified distributions are part of a series of substantially equal periodic payments. Nevertheless, to the extent that such distributions are allocable to a 1998 conversion contribution with respect to which the 4-year spread for the resultant income inclusion applies (see A–8 of this section) and are received during 1998, 1999, or 2000, the special acceleration rules of § 1.408A–6 A–6 apply. However, if the original series of substantially equal periodic payments does not continue to be distributed in substantially equal periodic payments from the Roth IRA after the conversion, the series of payments will have been modified and, if this modification occurs within 5 years of the first payment or prior to the individual becoming disabled or attaining age 59½, the taxpayer will be subject to the recapture tax of section 72(t)(4)(A).

Q–13. Can a 1997 distribution from a traditional IRA be converted to a Roth IRA in 1998?

A–13. No. An amount distributed from a traditional IRA in 1997 that is contributed to a Roth IRA in 1998 would not be a conversion contribution. See A–3 of this section regarding the remedy for a failed conversion.

§ 1.408A–5 Recharacterized contributions.

This section sets forth the following questions and answers that provide rules regarding recharacterizing IRA contributions:

Q–1. Can an IRA owner recharacterize certain contributions (i.e., treat a contribution made to one type of IRA as made to a different type of IRA) for a taxable year?

A–1. (a) Yes. In accordance with section 408A(d)(6), except as otherwise provided in this section, if an individual makes a contribution to an IRA (the FIRST IRA) for a taxable year and then transfers the contribution (or a portion of the contribution) in a trustee-to-trustee transfer from the trustee of the FIRST IRA to the trustee of another IRA (the SECOND IRA), the individual can elect to treat the contribution as having been made to the SECOND IRA, instead of to the FIRST IRA, for Federal tax purposes. A transfer between the FIRST IRA and the SECOND IRA will not fail to be a trustee-to-trustee transfer merely because both IRAs are maintained by the same trustee. For purposes of section 408A(d)(6), redesignating the FIRST IRA as the SECOND IRA will be treated as a transfer of the entire account balance from the FIRST IRA to the SECOND IRA.

(b) This recharacterization election can be made only if the trustee-to-trustee transfer from the FIRST IRA to the SECOND IRA is made on or before the due date (including extensions) for filing the individual's Federal income tax return for the taxable year for which the contribution was made to the FIRST IRA. For purposes of this section, a conversion that is accomplished through a rollover of a distribution from a traditional IRA in a taxable year that, 60 days after the distribution (as described in section 408(d)(3)(A)(i)), is contributed to a Roth IRA in the next taxable year is treated as a contribution for the earlier taxable year.

Q–2. What is the proper treatment of the net income attributable to the amount of a contribution that is being recharacterized?

A–2. (a) The net income attributable to the amount of a contribution that is being recharacterized must be transferred to the SECOND IRA along with the contribution.

(b) If the amount of the contribution being recharacterized was contributed to a separate IRA and no distributions or additional contributions have been made from or to that IRA at any time, then the contribution is recharacterized by the trustee of the FIRST IRA transferring the entire account balance of the FIRST IRA to the trustee of the SECOND IRA. In this case, the net income (or loss) attributable to the contribution being recharacterized is the difference between the amount of the original contribution and the amount transferred.

(c) If paragraph (b) of this A–2 does not apply, then the net income attributable to the amount of a contribution is calculated in the manner prescribed by § 1.408–4(c)(2)(ii) (disregarding the parenthetical clause in § 1.408–4(c)(2)(iii)).

Q–3. What is the effect of recharacterizing a contribution made to the FIRST IRA as a contribution made to the SECOND IRA?

A–3. The contribution that is being recharacterized as a contribution to the SECOND IRA is treated as having been originally contributed to the SECOND IRA on the same date and (in the case of a regular contribution) for the same taxable year that the contribution was made to the FIRST IRA. Thus, for example, no deduction would be allowed for a contribution to the FIRST IRA, and any net income transferred with the recharacterized contribution is treated as earned in the SECOND IRA, and not the FIRST IRA.

Q–4. Can an amount contributed to an IRA in a tax-free transfer be recharacterized under A–1 of this section?

A–4. No. If an amount is contributed to the FIRST IRA in a tax-free transfer, the amount cannot be recharacterized as a contribution to the SECOND IRA under A–1 of this section. However, if an amount is erroneously rolled over or transferred from a traditional IRA to a SIMPLE IRA, the contribution can subsequently be recharacterized as a contribution to another traditional IRA.

Q–5. Can an amount contributed by an employer under a SIMPLE IRA Plan or a SEP be recharacterized under A–1 of this section?

A–5. No. Employer contributions (including elective deferrals) under a SIMPLE IRA Plan or a SEP cannot be recharacterized as contributions to another IRA under A–1 of this section. However, an amount converted from a SEP IRA or SIMPLE IRA to a Roth IRA may be recharacterized under A–1 of this section as a contribution to a SEP IRA or SIMPLE IRA, including the original SEP IRA or SIMPLE IRA.

Q–6. How does a taxpayer make the election to recharacterize a contribution to an IRA for a taxable year?

A–6. (a) An individual makes the election described in this section by notifying, on or before the date of the transfer, both the trustee of the FIRST IRA and the trustee of the SECOND IRA, that the individual has elected to treat the contribution as having been made to the SECOND IRA, instead of the FIRST IRA, for Federal tax purposes. The notification of the election must include the following information: the type and amount of the contribution to the FIRST IRA that is to be recharacterized; the date on which the contribution was made to the FIRST IRA and the year for which it was made; a direction to the trustee of the FIRST IRA to transfer, in a trustee-to-trustee transfer, the amount of the contribution and net income allocable to the contribution to the trustee of the SECOND IRA; and the name of the trustee of the FIRST IRA and the trustee of the SECOND IRA and any additional information needed to make the transfer.

(b) The election and the trustee-to-trustee transfer must occur on or before the due date (including extensions) for filing the individual's Federal income tax return for the taxable year for which the recharacterized contribution was made to the FIRST IRA, and the election cannot be revoked after the transfer. An individual who makes this election must report the recharacterization, and must treat the contribution as having been made to the SECOND IRA, instead of the FIRST IRA, on the individual's Federal income tax return for the taxable year described in the preceding sentence in accordance with the applicable Federal tax forms and instructions.

(c) The election to recharacterize a contribution described in this A–6 may be made on behalf of a deceased IRA owner by his or her executor, administrator, or other person responsible for filing the final Federal income tax return of the decedent under section 6012(b)(1).

Q–7. If an amount is initially contributed to an IRA for a taxable year, then is moved (with net income attributable to the contribution) in a tax-free transfer to another IRA (the FIRST IRA for purposes of A–1 of this section), can the tax-free transfer be disregarded, so that the initial contribution that is transferred from the FIRST IRA to the SECOND IRA is treated as a recharacterization of that initial contribution?

A–7. Yes. In applying section 408A(d)(6), tax-free transfers between IRAs are disregarded. Thus, if a

contribution to an IRA for a year is followed by one or more tax-free transfers between IRAs prior to the recharacterization, then for purposes of section 408A(d)(6), the contribution is treated as if it remained in the initial IRA. Consequently, an individual may elect to recharacterize an initial contribution made to the initial IRA that was involved in a series of tax-free transfers by making a trustee-to-trustee transfer from the last IRA in the series to the SECOND IRA. In this case the contribution to the SECOND IRA is treated as made on the same date (and for the same taxable year) as the date the contribution being recharacterized was made to the initial IRA.

Q–8. If a contribution is recharacterized, is the recharacterization treated as a rollover for purposes of the one-rollover-per-year limitation of section 408(d)(3)(B)?

A–8. No, recharacterizing a contribution under A–1 of this section is never treated as a rollover for purposes of the one-rollover-per-year limitation of section 408(d)(3)(B), even if the contribution would have been treated as a rollover contribution by the SECOND IRA if it had been made directly to the SECOND IRA, rather than as a result of a recharacterization of a contribution to the FIRST IRA.

Q–9. If an IRA owner converts an amount from a traditional IRA to a Roth IRA and then transfers that amount back to a traditional IRA in a recharacterization, may the IRA owner subsequently reconvert that amount from the traditional IRA to a Roth IRA?

A–9. (a)(1) Except as otherwise provided in paragraph (b) of this A–9, an IRA owner who converts an amount from a traditional IRA to a Roth IRA during any taxable year and then transfers that amount back to a traditional IRA by means of a recharacterization may not reconvert that amount from the traditional IRA to a Roth IRA before the beginning of the taxable year following the taxable year in which the amount was converted to a Roth IRA or, if later, the end of the 30-day period beginning on the day on which the IRA owner transfers the amount from the Roth IRA back to a traditional IRA by means of a recharacterization (regardless of whether the recharacterization occurs during the taxable year in which the amount was converted to a Roth IRA or the following taxable year). Thus, any attempted reconversion of an amount prior to the time permitted under this paragraph (a)(1) is a failed conversion of that amount. However, see § 1.408A–4 A–3 for a remedy available to an individual who makes a failed conversion.

(2) For purposes of paragraph (a)(1) of this A–9, a failed conversion of an amount resulting from a failure to satisfy the requirements of § 1.408A–4 A–1(a) is treated as a conversion in determining whether an IRA owner has previously converted that amount.

(b)(1) An IRA owner who converts an amount from a traditional IRA to a Roth IRA during taxable year 1998 and then transfers that amount back to a traditional IRA by means of a recharacterization may reconvert that amount once (but no more than once) on or after November 1, 1998 and on or before December 31, 1998; the IRA owner may also reconvert that amount once (but no more than once) during 1999. The rule set forth in the preceding sentence applies without regard to whether the IRA owner's initial conversion or recharacterization of the amount occurred before, on, or after November 1, 1998. An IRA owner who converts an amount from a traditional IRA to a Roth IRA during taxable year 1999 that has not been converted previously and then transfers that amount back to a traditional IRA by means of a recharacterization may reconvert that amount once (but no more than once) on or before December 31, 1999. For purposes of this paragraph (b)(1), a failed conversion of an amount resulting from a failure to satisfy the requirements of § 1.408A–4 A–1(a) is not treated as a conversion in determining whether an IRA owner has previously converted that amount.

(2) A reconversion by an IRA owner during 1998 or 1999 for which the IRA owner is not eligible under paragraph (b)(1) of this A–9 will be deemed an excess reconversion (rather than a failed conversion) and will not change the IRA owner's taxable conversion amount. Instead, the excess reconversion and the last preceding recharacterization will not be taken into account for purposes of determining the IRA owner's taxable conversion amount, and the IRA owner's taxable conversion amount will be based on the last reconversion that was not an excess reconversion (unless, after the excess reconversion, the amount is transferred back to a traditional IRA by means of a recharacterization). An excess reconversion will otherwise be treated as a valid reconversion.

(3) For purposes of this paragraph (b), any reconversion that an IRA owner made before November 1, 1998 will not be treated as an excess reconversion and will not be taken into account in determining whether any later reconversion is an excess reconversion.

(c) In determining the portion of any amount held in a Roth IRA or a traditional IRA that an IRA owner may not reconvert under this A–9, any amount previously converted (or reconverted) is adjusted for subsequent net income thereon.

Q–10. Are there examples to illustrate the rules in this section?

A–10. The rules in this section are illustrated by the following examples:

Example 1. In 1998, Individual C converts the entire amount in his traditional IRA to a Roth IRA. Individual C thereafter determines that his modified AGI for 1998 exceeded $100,000 so that he was ineligible to have made a conversion in that year. Accordingly, prior to the due date (plus extensions) for filing the individual's Federal income tax return for 1998, he decides to recharacterize the conversion contribution. He instructs the trustee of the Roth IRA (FIRST IRA) to transfer in a trustee-to-trustee transfer the amount of the contribution, plus net income, to the trustee of a new traditional IRA (SECOND IRA). The individual notifies the trustee of the FIRST IRA and the trustee of the SECOND IRA that he is recharacterizing his IRA contribution (and provides the other information described in A–6 of this section). On the individual's Federal income tax return for 1998, he treats the original amount of the conversion as having been contributed to the SECOND IRA and not the Roth IRA. As a result, for Federal tax purposes, the contribution is treated as having been made to the SECOND IRA and not to the Roth IRA. The result would be the same if the conversion amount had been transferred in a tax-free transfer to another Roth IRA prior to the recharacterization.

Example 2. In 1998, an individual makes a $2,000 regular contribution for 1998 to his traditional IRA (FIRST IRA). Prior to the due date (plus extensions) for filing the individual's Federal income tax return for 1998, he decides that he would prefer to contribute to a Roth IRA instead. The individual instructs the trustee of the FIRST IRA to transfer in a trustee-to-trustee transfer the amount of the contribution, plus attributable net income, to the trustee of a Roth IRA (SECOND IRA). The individual notifies the trustee of the FIRST IRA and the trustee of the SECOND IRA that he is recharacterizing his $2,000 contribution for 1998 (and provides the other information described in A–6 of this section). On the individual's Federal income tax return for 1998, he treats the $2,000 as having been contributed to the Roth IRA for 1998 and not to the traditional IRA. As a result, for Federal tax purposes, the contribution is treated as having been made to the Roth IRA for 1998 and not to the traditional IRA. The result would be the same if the conversion amount had been transferred in a tax-free transfer to another traditional IRA prior to the recharacterization.

Example 3. The facts are the same as in *Example 2,* except that the $2,000 regular contribution is initially made to a Roth IRA and the recharacterizing transfer is made to a traditional IRA. On the individual's Federal income tax return for 1998, he treats the

$2,000 as having been contributed to the traditional IRA for 1998 and not the Roth IRA. As a result, for Federal tax purposes, the contribution is treated as having been made to the traditional IRA for 1998 and not the Roth IRA. The result would be the same if the contribution had been transferred in a tax-free transfer to another Roth IRA prior to the recharacterization, except that the only Roth IRA trustee the individual must notify is the one actually making the recharacterization transfer.

Example 4. In 1998, an individual receives a distribution from traditional IRA 1 and contributes the entire amount to traditional IRA 2 in a rollover contribution described in section 408(d)(3). In this case, the individual cannot elect to recharacterize the contribution by transferring the contribution amount, plus net income, to a Roth IRA, because an amount contributed to an IRA in a tax-free transfer cannot be recharacterized. However, the individual may convert (other than by recharacterization) the amount in traditional IRA 2 to a Roth IRA at any time, provided the requirements of § 1.408A–4 A–1 are satisfied.

§ 1.408A–6 Distributions.

This section sets forth the following questions and answers that provide rules regarding distributions from Roth IRAs:

Q–1. How are distributions from Roth IRAs taxed?

A–1. (a) The taxability of a distribution from a Roth IRA generally depends on whether or not the distribution is a qualified distribution. This A–1 provides rules for qualified distributions and certain other nontaxable distributions. A–4 of this section provides rules for the taxability of distributions that are not qualified distributions.

(b) A distribution from a Roth IRA is not includible in the owner's gross income if it is a qualified distribution or to the extent that it is a return of the owner's contributions to the Roth IRA (determined in accordance with A–8 of this section). A qualified distribution is one that is both—

(1) Made after a 5-taxable-year period (defined in A–2 of this section); and

(2) Made on or after the date on which the owner attains age 59½, made to a beneficiary or the estate of the owner on or after the date of the owner's death, attributable to the owner's being disabled within the meaning of section 72(m)(7), or to which section 72(t)(2)(F) applies (exception for first-time home purchase).

(c) An amount distributed from a Roth IRA will not be included in gross income to the extent it is rolled over to another Roth IRA on a tax-free basis under the rules of sections 408(d)(3) and 408A(e).

(d) Contributions that are returned to the Roth IRA owner in accordance with section 408(d)(4) (corrective distributions) are not includible in gross income, but any net income required to be distributed under section 408(d)(4) together with the contributions is includible in gross income for the taxable year in which the contributions were made.

Q–2. When does the 5-taxable-year period described in A–1 of this section (relating to qualified distributions) begin and end?

A–2. The 5-taxable-year period described in A–1 of this section begins on the first day of the individual's taxable year for which the first regular contribution is made to any Roth IRA of the individual or, if earlier, the first day of the individual's taxable year in which the first conversion contribution is made to any Roth IRA of the individual. The 5-taxable-year period ends on the last day of the individual's fifth consecutive taxable year beginning with the taxable year described in the preceding sentence. For example, if an individual whose taxable year is the calendar year makes a first-time regular Roth IRA contribution any time between January 1, 1998, and April 15, 1999, for 1998, the 5-taxable-year period begins on January 1, 1998. Thus, each Roth IRA owner has only one 5-taxable-year period described in A–1 of this section for all the Roth IRAs of which he or she is the owner. Further, because of the requirement of the 5-taxable-year period, no qualified distributions can occur before taxable years beginning in 2003. For purposes of this A–2, the amount of any contribution distributed as a corrective distribution under A–1(d) of this section is treated as if it was never contributed.

Q–3. If a distribution is made to an individual who is the sole beneficiary of his or her deceased spouse's Roth IRA and the individual is treating the Roth IRA as his or her own, can the distribution be a qualified distribution based on being made to a beneficiary on or after the owner's death?

A–3. No. If a distribution is made to an individual who is the sole beneficiary of his or her deceased spouse's Roth IRA and the individual is treating the Roth IRA as his or her own, then, in accordance with § 1.408A–2 A–4, the distribution is treated as coming from the individual's own Roth IRA and not the deceased spouse's Roth IRA. Therefore, for purposes of determining whether the distribution is a qualified distribution, it is not treated as made to a beneficiary on or after the owner's death.

Q–4. How is a distribution from a Roth IRA taxed if it is not a qualified distribution?

A–4. A distribution that is not a qualified distribution, and is neither contributed to another Roth IRA in a qualified rollover contribution nor constitutes a corrective distribution, is includible in the owner's gross income to the extent that the amount of the distribution, when added to the amount of all prior distributions from the owner's Roth IRAs (whether or not they were qualified distributions) and reduced by the amount of those prior distributions previously includible in gross income, exceeds the owner's contributions to all his or her Roth IRAs. For purposes of this A–4, any amount distributed as a corrective distribution is treated as if it was never contributed.

Q–5. Will the additional tax under 72(t) apply to the amount of a distribution that is not a qualified distribution?

A–5. (a) The 10-percent additional tax under section 72(t) will apply (unless the distribution is excepted under section 72(t)) to any distribution from a Roth IRA includible in gross income.

(b) The 10-percent additional tax under section 72(t) also applies to a nonqualified distribution, even if it is not then includible in gross income, to the extent it is allocable to a conversion contribution, if the distribution is made within the 5-taxable-year period beginning with the first day of the individual's taxable year in which the conversion contribution was made. The 5-taxable-year period ends on the last day of the individual's fifth consecutive taxable year beginning with the taxable year described in the preceding sentence. For purposes of applying the tax, only the amount of the conversion contribution includible in gross income as a result of the conversion is taken into account. The exceptions under section 72(t) also apply to such a distribution.

(c) The 5-taxable-year period described in this A–5 for purposes of determining whether section 72(t) applies to a distribution allocable to a conversion contribution is separately determined for each conversion contribution, and need not be the same as the 5-taxable-year period used for purposes of determining whether a distribution is a qualified distribution under A–1(b) of this section. For example, if a calendar-year taxpayer who received a distribution from a traditional IRA on December 31, 1998, makes a conversion contribution by contributing the distributed amount to a Roth IRA on February 25, 1999 in a qualifying rollover contribution and makes a regular contribution for 1998 on the same date, the 5-taxable-year period for purposes of this A–5 begins on

January 1, 1999, while the 5-taxable-year period for purposes of A–1(b) of this section begins on January 1, 1998.

Q–6. Is there a special rule for taxing distributions allocable to a 1998 conversion?

A–6. Yes. In the case of a distribution from a Roth IRA in 1998, 1999 or 2000 of amounts allocable to a 1998 conversion with respect to which the 4-year spread for the resultant income inclusion applies (see § 1.408A–4 A–8), any income deferred as a result of the election to years after the year of the distribution is accelerated so that it is includible in gross income in the year of the distribution up to the amount of the distribution allocable to the 1998 conversion (determined under A–8 of this section). This amount is in addition to the amount otherwise includible in the owner's gross income for that taxable year as a result of the conversion. However, this rule will not require the inclusion of any amount to the extent it exceeds the total amount of income required to be included over the 4-year period. The acceleration of income inclusion described in this A–6 applies in the case of a surviving spouse who elects to continue the 4-year spread in accordance with § 1.408A–4 A–11(b).

Q–7. Is the 5-taxable-year period described in A–1 of this section redetermined when a Roth IRA owner dies?

A–7. (a) No. The beginning of the 5-taxable-year period described in A–1 of this section is not redetermined when the Roth IRA owner dies. Thus, in determining the 5-taxable-year period, the period the Roth IRA is held in the name of a beneficiary, or in the name of a surviving spouse who treats the decedent's Roth IRA as his or her own, includes the period it was held by the decedent.

(b) The 5-taxable-year period for a Roth IRA held by an individual as a beneficiary of a deceased Roth IRA owner is determined independently of the 5-taxable-year period for the beneficiary's own Roth IRA. However, if a surviving spouse treats the Roth IRA as his or her own, the 5-taxable-year period with respect to any of the surviving spouse's Roth IRAs (including the one that the surviving spouse treats as his or her own) ends at the earlier of the end of either the 5-taxable-year period for the decedent or the 5-taxable-year period applicable to the spouse's own Roth IRAs.

Q–8. How is it determined whether an amount distributed from a Roth IRA is allocated to regular contributions, conversion contributions, or earnings?

A–8. (a) Any amount distributed from an individual's Roth IRA is treated as made in the following order (determined as of the end of a taxable year and exhausting each category before moving to the following category)—

(1) From regular contributions;

(2) From conversion contributions, on a first-in-first-out basis; and

(3) From earnings.

(b) To the extent a distribution is treated as made from a particular conversion contribution, it is treated as made first from the portion, if any, that was includible in gross income as a result of the conversion.

Q–9. Are there special rules for determining the source of distributions under A–8 of this section?

A–9. Yes. For purposes of determining the source of distributions, the following rules apply:

(a) All distributions from all an individual's Roth IRAs made during a taxable year are aggregated.

(b) All regular contributions made for the same taxable year to all the individual's Roth IRAs are aggregated and added to the undistributed total regular contributions for prior taxable years. Regular contributions for a taxable year include contributions made in the following taxable year that are identified as made for the taxable year in accordance with § 1.408A–3 A–2. For example, a regular contribution made in 1999 for 1998 is aggregated with the contributions made in 1998 for 1998.

(c) All conversion contributions received during the same taxable year by all the individual's Roth IRAs are aggregated. Notwithstanding the preceding sentence, all conversion contributions made by an individual during 1999 that were distributed from a traditional IRA in 1998 and with respect to which the 4-year spread applies are treated for purposes of A–8(b) of this section as contributed to the individual's Roth IRAs prior to any other conversion contributions made by the individual during 1999.

(d) A distribution from an individual's Roth IRA that is rolled over to another Roth IRA of the individual in accordance with section 408A(e) is disregarded for purposes of determining the amount of both contributions and distributions.

(e) Any amount distributed as a corrective distribution (including net income), as described in A–1(d) of this section, is disregarded in determining the amount of contributions, earnings, and distributions.

(f) If an individual recharacterizes a contribution made to a traditional IRA (FIRST IRA) by transferring the contribution to a Roth IRA (SECOND IRA) in accordance with § 1.408A–5, then, pursuant to § 1.408A–5 A–3, the contribution to the Roth IRA is taken into account for the same taxable year for which it would have been taken into account if the contribution had originally been made to the Roth IRA and had never been contributed to the traditional IRA. Thus, the contribution to the Roth IRA is treated as contributed to the Roth IRA on the same date and for the same taxable year that the contribution was made to the traditional IRA.

(g) If an individual recharacterizes a regular or conversion contribution made to a Roth IRA (FIRST IRA) by transferring the contribution to a traditional IRA (SECOND IRA) in accordance with § 1.408A–5, then pursuant to § 1.408A–5 A–3, the contribution to the Roth IRA and the recharacterizing transfer are disregarded in determining the amount of both contributions and distributions for the taxable year with respect to which the original contribution was made to the Roth IRA.

(h) Pursuant to § 1.408A–5 A–3, the effect of income or loss (determined in accordance with § 1.408A–5 A–2) occurring after the contribution to the FIRST IRA is disregarded in determining the amounts described in paragraphs (f) and (g) of this A–9. Thus, for purposes of paragraphs (f) and (g), the amount of the contribution is determined based on the original contribution.

Q–10. Are there examples to illustrate the ordering rules described in A–8 and A–9 of this section?

A–10. Yes. The following examples illustrate these ordering rules:

Example 1. In 1998, individual B converts $80,000 in his traditional IRA to a Roth IRA. B has a basis of $20,000 in the conversion amount and so must include the remaining $60,000 in gross income. He decides to spread the $60,000 income by including $15,000 in each of the 4 years 1998–2001, under the rules of § 1.408A–4 A–8. B also makes a regular contribution of $2,000 in 1998. If a distribution of $2,000 is made to B anytime in 1998, it will be treated as made entirely from the regular contributions, so there will be no Federal income tax consequences as a result of the distribution.

Example 2. The facts are the same as in *Example 1,* except that the distribution made in 1998 is $5,000. The distribution is treated as made from $2,000 of regular contributions and $3,000 of conversion contributions that were includible in gross income. As a result, B must include $18,000 in gross income for 1998: $3,000 as a result of the acceleration of amounts that otherwise would have been included in later years under the 4-year-spread rule and $15,000 includible under the regular 4-year-spread rule. In addition, because the $3,000 is allocable to a conversion made within the previous 5

taxable years, the 10-percent additional tax under section 72(t) would apply to this $3,000 distribution for 1998, unless an exception applies. Under the 4-year-spread rule, B would now include in gross income $15,000 for 1999 and 2000, but only $12,000 for 2001, because of the accelerated inclusion of the $3,000 distribution.

Example 3. The facts are the same as in *Example 1,* except that B makes an additional $2,000 regular contribution in 1999 and he does not take a distribution in 1998. In 1999, the entire balance in the account, $90,000 ($84,000 of contributions and $6,000 of earnings), is distributed to B. The distribution is treated as made from $4,000 of regular contributions, $60,000 of conversion contributions that were includible in gross income, $20,000 of conversion contributions that were not includible in gross income, and $6,000 of earnings. Because a distribution has been made within the 4-year-spread period, B must accelerate the income inclusion under the 4-year-spread rule and must include in gross income the $45,000 remaining under the 4-year-spread rule in addition to the $6,000 of earnings. Because $60,000 of the distribution is allocable to a conversion made within the previous 5 taxable years, it is subject to the 10-percent additional tax under section 72(t) as if it were includible in gross income for 1999, unless an exception applies. The $6,000 allocable to earnings would be subject to the tax under section 72(t), unless an exception applies. Under the 4-year-spread rule, no amount would be includible in gross income for 2000 or 2001 because the entire amount of the conversion that was includible in gross income has already been included.

Example 4. The facts are the same as in *Example 1,* except that B also makes a $2,000 regular contribution in each year 1999 through 2002 and he does not take a distribution in 1998. A distribution of $85,000 is made to B in 2002. The distribution is treated as made from the $10,000 of regular contributions (the total regular contributions made in the years 1998–2002), $60,000 of conversion contributions that were includible in gross income, and $15,000 of conversion contributions that were not includible in gross income. As a result, no amount of the distribution is includible in gross income; however, because the distribution is allocable to a conversion made within the previous 5 years, the $60,000 is subject to the 10-percent additional tax under section 72(t) as if it were includible in gross income for 2002, unless an exception applies.

Example 5. The facts are the same as in *Example 4,* except no distribution occurs in 2002. In 2003, the entire balance in the account, $170,000 ($90,000 of contributions and $80,000 of earnings), is distributed to B. The distribution is treated as made from $10,000 of regular contributions, $60,000 of conversion contributions that were includible in gross income, $20,000 of conversion contributions that were not includible in gross income, and $80,000 of earnings. As a result, for 2003, B must include in gross income the $80,000 allocable to earnings, unless the distribution is a qualified distribution; and if it is not a qualified distribution, the $80,000 would be subject to the 10-percent additional tax under section 72(t), unless an exception applies.

Example 6. Individual C converts $20,000 to a Roth IRA in 1998 and $15,000 (in which amount C had a basis of $2,000) to another Roth IRA in 1999. No other contributions are made. In 2003, a $30,000 distribution, that is not a qualified distribution, is made to C. The distribution is treated as made from $20,000 of the 1998 conversion contribution and $10,000 of the 1999 conversion contribution that was includible in gross income. As a result, for 2003, no amount is includible in gross income; however, because $10,000 is allocable to a conversion contribution made within the previous 5 taxable years, that amount is subject to the 10-percent additional tax under section 72(t) as if the amount were includible in gross income for 2003, unless an exception applies. The result would be the same whichever of C's Roth IRAs made the distribution.

Example 7. The facts are the same as in *Example 6,* except that the distribution is a qualified distribution. The result is the same as in Example 6, except that no amount would be subject to the 10-percent additional tax under section 72(t), because, to be a qualified distribution, the distribution must be made on or after the date on which the owner attains age 59½, made to a beneficiary or the estate of the owner on or after the date of the owner's death, attributable to the owner's being disabled within the meaning of section 72(m)(7), or to which section 72(t)(2)(F) applies (exception for a first-time home purchase). Under section 72(t)(2), each of these conditions is also an exception to the tax under section 72(t).

Example 8. Individual D makes a $2,000 regular contribution to a traditional IRA on January 1, 1999, for 1998. On April 15, 1999, when the $2,000 has increased to $2,500, D recharacterizes the contribution by transferring the $2,500 to a Roth IRA (pursuant to § 1.408A–5 A–1). In this case, D's regular contribution to the Roth IRA for 1998 is $2,000. The $500 of earnings is not treated as a contribution to the Roth IRA. The results would be the same if the $2,000 had decreased to $1,500 prior to the recharacterization.

Example 9. In December 1998, individual E receives a distribution from his traditional IRA of $300,000 and in January 1999 he contributes the $300,000 to a Roth IRA as a conversion contribution. In April 1999, when the $300,000 has increased to $350,000, E recharacterizes the conversion contribution by transferring the $350,000 to a traditional IRA. In this case, E's conversion contribution for 1998 is $0, because the $300,000 conversion contribution and the earnings of $50,000 are disregarded. The results would be the same if the $300,000 had decreased to $250,000 prior to the recharacterization. Further, since the conversion is disregarded, the $300,000 is not includible in gross income in 1998.

Q–11. If the owner of a Roth IRA dies prior to the end of the 5-taxable-year period described in A–1 of this section (relating to qualified distributions) or prior to the end of the 5-taxable-year period described in A–5 of this section (relating to conversions), how are different types of contributions in the Roth IRA allocated to multiple beneficiaries?

A–11. Each type of contribution is allocated to each beneficiary on a pro-rata basis. Thus, for example, if a Roth IRA owner dies in 1999, when the Roth IRA contains a regular contribution of $2,000, a conversion contribution of $6,000 and earnings of $1,000, and the owner leaves his Roth IRA equally to four children, each child will receive one quarter of each type of contribution. Pursuant to the ordering rules in A–8 of this section, an immediate distribution of $2,000 to one of the children will be deemed to consist of $500 of regular contributions and $1,500 of conversion contributions. A beneficiary's inherited Roth IRA may not be aggregated with any other Roth IRA maintained by such beneficiary (except for other Roth IRAs the beneficiary inherited from the same decedent), unless the beneficiary, as the spouse of the decedent and sole beneficiary of the Roth IRA, elects to treat the Roth IRA as his or her own (see A–7 and A–14 of this section).

Q–12. How do the withholding rules under section 3405 apply to Roth IRAs?

A–12. Distributions from a Roth IRA are distributions from an individual retirement plan for purposes of section 3405 and thus are designated distributions unless one of the exceptions in section 3405(e)(1) applies. Pursuant to section 3405(a) and (b), nonperiodic distributions from a Roth IRA are subject to 10-percent withholding by the payor and periodic payments are subject to withholding as if the payments were wages. However, an individual can elect to have no amount withheld in accordance with section 3405(a)(2) and (b)(2).

Q–13. Do the withholding rules under section 3405 apply to conversions?

A–13. Yes. A conversion by any method described in § 1.408A–4 A–1 is considered a designated distribution subject to section 3405. However, a conversion occurring in 1998 by means of a trustee-to-trustee transfer of an amount from a traditional IRA to a Roth IRA established with the same or a different trustee is not required to be treated as a designated distribution for purposes of section 3405. Consequently, no withholding is required with respect to such a conversion (without regard to whether or not the individual elected to have no withholding).

Q–14. What minimum distribution rules apply to a Roth IRA?

A–14. (a) No minimum distributions are required to be made from a Roth IRA

under section 408(a)(6) and (b)(3) (which generally incorporate the provisions of section 401(a)(9)) while the owner is alive. The post-death minimum distribution rules under section 401(a)(9)(B) that apply to traditional IRAs, with the exception of the at-least-as-rapidly rule described in section 401(a)(9)(B)(i), also apply to Roth IRAs.

(b) The minimum distribution rules apply to the Roth IRA as though the Roth IRA owner died before his or her required beginning date. Thus, generally, the entire interest in the Roth IRA must be distributed by the end of the fifth calendar year after the year of the owner's death unless the interest is payable to a designated beneficiary over a period not greater than that beneficiary's life expectancy and distribution commences before the end of the calendar year following the year of death. If the sole beneficiary is the decedent's spouse, such spouse may delay distributions until the decedent would have attained age 70½ or may treat the Roth IRA as his or her own.

(c) Distributions to a beneficiary that are not qualified distributions will be includible in the beneficiary's gross income according to the rules in A–4 of this section.

Q–15. Does section 401(a)(9) apply separately to Roth IRAs and individual retirement plans that are not Roth IRAs?

A–15. Yes. An individual required to receive minimum distributions from his or her own traditional or SIMPLE IRA cannot choose to take the amount of the minimum distributions from any Roth IRA. Similarly, an individual required to receive minimum distributions from a Roth IRA cannot choose to take the amount of the minimum distributions from a traditional or SIMPLE IRA. In addition, an individual required to receive minimum distributions as a beneficiary under a Roth IRA can only satisfy the minimum distributions for one Roth IRA by distributing from another Roth IRA if the Roth IRAs were inherited from the same decedent.

Q–16. How is the basis of property distributed from a Roth IRA determined for purposes of a subsequent disposition?

A–16. The basis of property distributed from a Roth IRA is its fair market value (FMV) on the date of distribution, whether or not the distribution is a qualified distribution. Thus, for example, if a distribution consists of a share of stock in XYZ Corp. with an FMV of $40.00 on the date of distribution, for purposes of determining gain or loss on the subsequent sale of the share of XYZ Corp. stock, it has a basis of $40.00.

Q–17. What is the effect of distributing an amount from a Roth IRA and contributing it to another type of retirement plan other than a Roth IRA?

A–17. Any amount distributed from a Roth IRA and contributed to another type of retirement plan (other than a Roth IRA) is treated as a distribution from the Roth IRA that is neither a rollover contribution for purposes of section 408(d)(3) nor a qualified rollover contribution within the meaning of section 408A(e) to the other type of retirement plan. This treatment also applies to any amount transferred from a Roth IRA to any other type of retirement plan unless the transfer is a recharacterization described in § 1.408A–5.

Q–18. Can an amount be transferred directly from an education IRA to a Roth IRA (or distributed from an education IRA and rolled over to a Roth IRA)?

A–18. No amount may be transferred directly from an education IRA to a Roth IRA. A transfer of funds (or distribution and rollover) from an education IRA to a Roth IRA constitutes a distribution from the education IRA and a regular contribution to the Roth IRA (rather than a qualified rollover contribution to the Roth IRA).

Q–19. What are the Federal income tax consequences of a Roth IRA owner transferring his or her Roth IRA to another individual by gift?

A–19. A Roth IRA owner's transfer of his or her Roth IRA to another individual by gift constitutes an assignment of the owner's rights under the Roth IRA. At the time of the gift, the assets of the Roth IRA are deemed to be distributed to the owner and, accordingly, are treated as no longer held in a Roth IRA. In the case of any such gift of a Roth IRA made prior to October 1, 1998, if the entire interest in the Roth IRA is reconveyed to the Roth IRA owner prior to January 1, 1999, the Internal Revenue Service will treat the gift and reconveyance as never having occurred for estate tax, gift tax, and generation-skipping tax purposes and for purposes of this A–19.

§ 1.408A–7 Reporting.

This section sets forth the following questions and answers that relate to the reporting requirements applicable to Roth IRAs:

Q–1. What reporting requirements apply to Roth IRAs?

A–1. Generally, the reporting requirements applicable to IRAs other than Roth IRAs also apply to Roth IRAs, except that, pursuant to section 408A(d)(3)(D), the trustee of a Roth IRA must include on Forms 1099–R and 5498 additional information as described in the instructions thereto. Any conversion of amounts from an IRA other than a Roth IRA to a Roth IRA is treated as a distribution for which a Form 1099–R must be filed by the trustee maintaining the non-Roth IRA. In addition, the owner of such IRAs must report the conversion by completing Form 8606. In the case of a recharacterization described in § 1.408A–5 A–1, IRA owners must report such transactions in the manner prescribed in the instructions to the applicable Federal tax forms.

Q–2. Can a trustee rely on reasonable representations of a Roth IRA contributor or distributee for purposes of fulfilling reporting obligations?

A–2. A trustee maintaining a Roth IRA is permitted to rely on reasonable representations of a Roth IRA contributor or distributee for purposes of fulfilling reporting obligations.

§ 1.408A–8 Definitions.

This section sets forth the following question and answer that provides definitions of terms used in the provisions of §§ 1.408A–1 through 1.408A–7 and this section:

Q–1. Are there any special definitions that govern in applying the provisions of §§ 1.408A–1 through 1.408A–7 and this section?

A–1. Yes, the following definitions govern in applying the provisions of §§ 1.408A–1 through 1.408A–7 and this section. Unless the context indicates otherwise, the use of a particular term excludes the use of the other terms.

(a) *Different types of IRAs*—(1) *IRA*. Sections 408(a) and (b), respectively, describe an individual retirement account and an individual retirement annuity. The term IRA means an IRA described in either section 408(a) or (b), including each IRA described in paragraphs (a)(2) through (5) of this A–1. However, the term IRA does not include an education IRA described in section 530.

(2) *Traditional IRA*. The term traditional IRA means an individual retirement account or individual retirement annuity described in section 408(a) or (b), respectively. This term includes a SEP IRA but does not include a SIMPLE IRA or a Roth IRA.

(3) *SEP IRA*. Section 408(k) describes a simplified employee pension (SEP) as an employer-sponsored plan under which an employer can make contributions to IRAs established for its employees. The term SEP IRA means an IRA that receives contributions made under a SEP. The term SEP includes a salary reduction SEP (SARSEP) described in section 408(k)(6).

(4) *SIMPLE IRA.* Section 408(p) describes a SIMPLE IRA Plan as an employer-sponsored plan under which an employer can make contributions to SIMPLE IRAs established for its employees. The term SIMPLE IRA means an IRA to which the only contributions that can be made are contributions under a SIMPLE IRA Plan or rollovers or transfers from another SIMPLE IRA.

(5) *Roth IRA.* The term Roth IRA means an IRA that meets the requirements of section 408A.

(b) *Other defined terms or phrases*—(1) *4-year spread.* The term 4-year spread is described in § 1.408A–4 A–8.

(2) *Conversion.* The term conversion means a transaction satisfying the requirements of § 1.408A–4 A–1.

(3) *Conversion amount or conversion contribution.* The term conversion amount or conversion contribution is the amount of a distribution and contribution with respect to which a conversion described in § 1.408A–4 A–1 is made.

(4) *Failed conversion.* The term failed conversion means a transaction in which an individual contributes to a Roth IRA an amount transferred or distributed from a traditional IRA or Simple IRA (including a transfer by redesignation) in a transaction that does not constitute a conversion under § 1.408A–4 A–1.

(5) *Modified AGI.* The term modified AGI is defined in § 1.408A–3 A–5.

(6) *Recharacterization.* The term recharacterization means a transaction described in § 1.408A–5 A–1.

(7) *Recharacterized amount or recharacterized contribution.*The term recharacterized amount or recharacterized contribution means an amount or contribution treated as contributed to an IRA other than the one to which it was originally contributed pursuant to a recharacterization described in § 1.408A–5 A–1.

(8) *Taxable conversion amount.* The term taxable conversion amount means the portion of a conversion amount includible in income on account of a conversion, determined under the rules of section 408(d)(1) and (2).

(9) *Tax-free transfer.* The term tax-free transfer means a tax-free rollover described in section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), 403(b)(8), 403(b)(10) or 408(d)(3), or a tax-free trustee-to-trustee transfer.

(10) *Treat an IRA as his or her own.* The phrase treat an IRA as his or her own means to treat an IRA for which a surviving spouse is the sole beneficiary as his or her own IRA after the death of the IRA owner in accordance with the terms of the IRA instrument or in the manner provided in the regulations under section 408(a)(6) or (b)(3).

(11) *Trustee.* The term trustee includes a custodian or issuer (in the case of an annuity) of an IRA (except where the context clearly indicates otherwise).

§ 1.408A–9 Effective date.

This section contains the following question and answer providing the effective date of §§ 1.408A–1 through 1.408A–8:

Q–1. To what taxable years do §§ 1.408A–1 through 1.408A–8 apply?

A–1 Sections 1.408A–1 through 1.408A–8 apply to taxable years beginning on or after January 1, 1998.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Paragraph 9. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

Par.10. In § 602.101, paragraph (c) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.408A–2	1545–1616
1.408A–4	1545–1616
1.408A–5	1545–1616
1.408A–7	1545–1616
* * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: January 25, 1999.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–2550 Filed 2–3–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the District of Columbia Code

AGENCY: United States Parole Commission, Justice.

ACTION: Interim rule; amendments.

SUMMARY: The U.S. Parole Commission is amending the interim rules that govern the parole process for prisoners serving sentences under the District of Columbia Code. The amendments provide criteria for filing applications to reduce a prisoner's minimum sentence, provide deadlines for conducting hearings for youth offenders, expand the guidelines for attempted murder to include offenses of equivalent violence, distinguish between current and prior offenses in the case of probation violators, improve the procedures for medical and geriatric parole applications, and add a new guideline for rewarding prisoners who substantially assist law enforcement.

DATES: *Effective Date:* February 4, 1999. *Comments:* Comments must be received by March 31, 1999.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Pamela A. Posch, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: Under Section 11231 of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. L. 105–33) the U.S. Parole Commission assumed, on August 5, 1998, the jurisdiction and authority of the Board of Parole of the District of Columbia to grant and deny parole, and to impose conditions upon an order of parole, in the case of any imprisoned felon who is eligible for parole or reparole under the District of Columbia Code. At 63 FR Part IV (July 21, 1998), and 63 FR 57060 (October 26, 1998), the Commission published and amended interim regulations, with a request for public comment, to govern this new function. The Commission is again amending these interim regulations with a further request for public comment. The Commission intends that final rule making be considered later this year, once it is satisfied that it has had enough experience in the application of these rules to DC Code prisoners.

These amendments are intended to provide solutions to several problems encountered in processing applications for parole and other determinations involving DC Code prisoners since August 5, 1998. In the case of medical and geriatric paroles, comments received from the University of the District of Columbia have persuaded the

Commission that some drafting improvements are in order. All comment received since August 5, 1998, will be carefully reviewed prior to the adoption of final rules.

Explanation of the Amendments

The Commission has amended the rule that implements DC Code 24–201(c), which authorizes the Commission to apply to the sentencing court for a reduction in a prisoner's minimum sentence. The present rule, adopted from the rules of the DC Board of Parole, do not provide a clear explanation of the criteria to be used by the Commission in determining whether or not to file such an application. The criteria adopted herein are intended to implement the purposes of the law by requiring that a prisoner must have shown outstanding participation in rehabilitative programs, must have fully observed prison rules, and must appear to be an acceptable risk for parole. The amended rule also specifies that the minimum term must appear to be too long in relation to the seriousness of the offense, before the Commission can justifiably recommend to the court that it be reduced. The Commission finds that, under the law, all the factors that will be considered by the sentencing court (including both rehabilitation and punishment) must be found to justify an application to reduce a minimum sentence. In the practice of the DC Board of Parole, such reductions were sought by the Board only in the most exceptional cases, and the Commission's reading of the law supports a continuation of that policy.

With respect to Youth Rehabilitation Act prisoners, the amended rule provides that the initial parole hearing must be held not later than 120 days from the prisoner's arrival at the institution that is responsible for developing his rehabilitative program. Reconsideration hearings are to be calculated from the date the initial hearing is held. The amended rule also specifies that when a youth offender whose parole has been revoked is again heard for parole, the decision is to be made pursuant to the youth guidelines, and that a new rehabilitative program be developed. However, if a ''no benefit'' finding has been made with regard to such a prisoner (which removes him from the youth program), the adult reparole guidelines at § 2.21 will thereafter be applied.

With respect to the Point Assignment Table at § 2.80, the guideline for ''attempted murder'' under Category III has been found to be too restrictive. The Commission has encountered several cases in which extremely violent conduct that should have resulted in the victim's death (*i.e.*, where death was the most likely outcome that could have been reasonably foreseen) cannot be rated as ''attempted murder'' because there was no specific intent to kill. The Commission's predictive judgment is that the offender who commits a crime of such a wanton and reckless nature, even though without specific intent to cause death (whether due to his intoxication or otherwise), poses a risk of future violent conduct equivalent to that of the attempted murderer. For a case to fall into this category, however, the survival of the victim must have been clearly against the odds. Pointing a firearm at a robbery victim, or discharging a firearm in the air without taking aim, would not be so rated. However, the case of an intoxicated offender aiming his speeding vehicle directly at a police officer standing in the street, or stabbing a victim multiple times and leaving the victim locked in the trunk of his car (with the victim improbably surviving), would be rated as equivalent to attempted murder, even if there was no specific intent to kill.

In the case of probation violators, the Commission adopts the same rule that applies at § 2.20(j)(2) of this Part, which is that the offense of conviction is included along with the probation violation behavior as part of the ''current offense'' if the offender did not serve more than six months in jail before commencing the probation that was revoked. If, however, the offender served a period of imprisonment longer than six months for the original offense, then the original offense is counted as a prior conviction (with a prior commitment) rather than as part of the ''current offense.'' The Commission's judgment is that this policy is the best way to assess the predictive significance of the original offense and the intervening period of confinement.

In the case of medical and geriatric parole, the Commission agrees with the comment from UDC that DC Code 24–264 does not require the institution to ''certify'' the medical status of each applicant, and that case managers are better suited to process applications for medical or geriatric parole than the medical staff. The Commission does not believe that the current rule, however, precludes the institution medical staff from basing their report about an applicant upon outside medical expertise. If the institution medical staff does not have the expertise to evaluate a prisoner's condition, the rule permits the staff to forward to the Commission the report of the private physician or facility to which the prisoner has been referred. (Having some level of review by official staff helps to guard against the possibility of altered or fraudulent medical reports.) The Commission also disagrees with the UDC comment that, in the case of applications for medical parole on the basis of a ''permanent and irreversible incapacitation,'' it is sufficient for the rule to repeat the statutory criterion that the prisoner ''will not be a danger to himself or others.'' The statutory language leaves unanswered the question as to how serious the qualifying incapacitation must be, and exactly what the prisoner must be incapacitated from doing. The Commission believes that there must be a clear relationship between the qualifying incapacitation and the prisoner's asserted suitability for parole, for the incapacitation to be a legal basis for granting parole. Otherwise, there would be no limit to the types and degrees of incapacitating conditions put forward by prisoners as a reason for early parole consideration. The interim rule has, accordingly, been redrafted to make it clear that the incapacitating condition must be serious enough to require the prisoner to cease his criminal career, thus no longer presenting a danger to himself or others.

Finally, the Commission is adding an additional paragraph to § 2.63, the rule that provides a guideline for rewarding assistance by federal prisoners in the prosecution of other offenders. The rule contains criteria that are equally applicable to DC Code prisoners, but does not provide a guideline that can be applied to them. Thus, the Commission is amending the rule to permit either an application for reduction of the minimum term by up to one-third, or the deduction of one point from the Total Point Score under § 2.80, as if the cooperation had been positive program achievement. It is the Commission's intent that such rewards be limited to cases wherein the cooperation by the prisoner has produced significant results, and may signal the prisoner's eventual rehabilitation. It is never the Commission's practice, however, to grant a reward in advance of cooperation, regardless of what agreements may be made between prosecutors and prisoners.

Good Cause Finding

The Commission is making these amendments effective on the date of this publication, for good cause pursuant to 5 U.S.C. 553(d)(3). This is because the amendments are needed to address issues that frequently arise in the parole determination process for which the Commission is currently responsible.

Executive Order 12866 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this amended interim rule is not a significant rule within the meaning of Executive Order 12866, and the amended interim rule has, accordingly, not been reviewed by the Office of Management and Budget. The amended interim rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

The Amendments

Accordingly, the U.S. Parole Commission is adopting the following amendments to 28 CFR Part 2.

PART 2—[AMENDED]

1. The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

Subpart A—United States Code Prisoners and Parolees

2. 28 CFR Part 2 is amended by adding a new paragraph (c) to § 2.62 to read as follows:

§ 2.62 Rewarding Assistance in the Prosecution of Other Offenders: Criteria and Guidelines

* * * * *

(c) In the case of an eligible DC Code prisoner whose assistance meets the criteria of this section, the Commission may consider deducting a point under Category V of the Point Assignment Table at § 2.80, in addition to any other deduction for positive program achievement, when considering such prisoner for parole. In the case of a DC Code prisoner with an unserved minimum term, the Commission may consider filing an application under § 2.76 for a reduction of up to one-third of such term less applicable good time.

Supart C—District of Columbia Code Prisoners and Parolees

3. 28 CFR Part 2 is amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e) and adding the following new paragraph (c) to § 2.76 to read as follows:

§ 2.76 Reduction in minimum sentence.

* * * * *

(c) Pursuant to DC Code § 24–201c, the Commission may file an application to the sentencing court for a reduction of a prisoner's minimum term if the Commission finds that:

(1) The prisoner has completed three years of the minimum term imposed by the court;

(2) The prisoner has shown, in the opinion of the Commission, outstanding participation in the rehabilitative program(s) of the institution;

(3) The prisoner has fully observed the rules of each institution in which the prisoner has been confined;

(4) The prisoner appears to be an acceptable risk for parole based on both the prisoner's pre-and post-incarceration record; and,

(5) Service of the minimum term imposed by the court does not appear necessary to achieve appropriate punishment and deterrence.

* * * * *

4. 28 CFR Part 2 is amended by revising § 2.71(b) to read as follows:

§ 2.71 Application for parole.

* * * * *

(b) To the extent practicable, the initial hearing for an eligible prisoner who has applied for parole shall be held at least 180 days prior to an adult prisoner's date of eligibility for parole, and at least 120 days from the date a youth offender has been admitted to the institution that is responsible for developing his rehabilitative program.

* * * * *

4a. Section 2.75(a) is revised to read as follows:

§ 2.75 Reconsideration proceedings.

(a) If the Commission denies parole, it shall establish an appropriate reconsideration date in accordance with the provisions of § 2.80. The prisoner shall be given a rehearing during the month specified by the Commission, or on the docket of hearings immediately preceding that month if there be no docket of hearings scheduled for the month specified. If the prisoner's mandatory release date will occur before the reconsideration date deemed appropriate by the Commission pursuant to § 2.80, the Commission may order that the prisoner be released by the expiration of his sentence less good time (''continue to expiration''). The first reconsideration date shall be calculated from the prisoner's eligibility date, except that in the case of a youth offender or any prisoner who has waived the initial hearing, the first reconsideration date shall be calculated from the date the initial hearing is held. In all cases, any subsequent reconsideration date shall be calculated from the date of the last hearing.

* * * * *

4b. Section 2.87 is revised to read as follows:

§ 2.87 Reparole.

Each decision to grant or deny reparole shall be made by reference to the Commission's reparole guidelines at § 2.21, which shall include the establishment of a presumptive or effective release date pursuant to § 2.12(b) and interim hearings pursuant to § 2.14. However, if the prisoner is also eligible for parole on a new DC Code felony sentence that has been aggregated with the prisoner's parole violation term, or is a youth offender serving the remainder of a Youth Rehabilitation Act sentence following revocation of parole, the applicable guideline at § 2.80 (adult or youth) shall be applied in lieu of such provisions. Reparole hearings shall be conducted according to the procedures set forth in § 2.72.

5. 28 CFR Part 2 is amended by revising Category III B of the Point Assignment Table at § 2.80(f) to read as follows:

§ 2.80 Guidelines for DC Code Offenders.

* * * * *

(f) Point assignment table.

* * * * *

Category III: Death of victim or high level violence	(Salient factor score)
* * * * * * *	
B. Current Offense Involved Attempted Murder or Violence in which Death of Victim Would Have Been the Probable Result	+2
* * * * * * *	

6. 28 CFR Part 2 is amended by revising the heading of § 2.80 (g) and paragraph (g)(6) to read as follows:

§ 2.80 Guidelines for DC Code Offenders.

* * * * *

(g) Definitions and instructions for application of point assignment table.

* * * * *

(6) *Current offense* means any criminal behavior that is either:

(i) Reflected in the offense of conviction, or

(ii) Is not reflected in the offense of conviction but is found by the Commission to be related to the offense of conviction (*i.e.,* part of the same course of conduct as the offense of conviction). In probation violation cases, the current offense includes both the original offense and the violation offense, except that the original offense shall be scored as a prior conviction (with a prior commitment) if the prisoner served more than six months in prison for the original offense before commencement of probation.

* * * * *

7. 28 CFR Part 2 is amended by removing the word ''certifying'' from § 2.77(a), by revising the phrase ''medical staff'' to read ''case management staff'' in § 2.77(e) and by revising § 2.77(c) to read as follows:

§ 2.77 Medical parole.

* * * * *

(c) A prisoner may be granted a medical parole on the basis of permanent and irreversible incapacitation only if the Commission finds that:

(1) The prisoner will not be a danger to himself or others because his condition renders him incapable of continuing his criminal career; and,

(2) Release on parole will not be incompatible with the welfare of society.

* * * * *

7a. Section 2.78(d) is amended by revising the phrase ''medical staff'' to read ''case management staff''.

8. 28 CFR Part 2 is amended by adding the following reference to § 2.89 between the reference to 2.56 and the reference to 2.66:

§ 2.89 Miscellaneous provisions.

* * * * *

2.63 Rewarding assistance in the prosecution of other offenders: criteria and guidelines.

* * * * *

Dated: January 26, 1999.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 99–2383 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–31–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 501

Reporting and Procedures Regulations: Procedure for Requests for Removal from List of Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Foreign Terrorist Organizations, Specially Designated Narcotics Traffickers, and Blocked Vessels

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Treasury Department is amending the Reporting and Procedures Regulations to modify the procedures for removal of names of blocked persons or vessels from the Office of Foreign Assets Control's list of blocked persons, specially designated nationals, specially designated terrorists, foreign terrorist organizations, specially designated narcotics traffickers, and blocked vessels.

EFFECTIVE DATE: January 29, 1999.

FOR FURTHER INFORMATION CONTACT: J. Robert McBrien, Chief, International Programs Division (tel.: 202/622–2420), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type ''/GO FAC,'' or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat[R] readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library (''TEL'') in the ''Research Mall'' of the FedWorld bulletin board. By modem, dial 703/321–3339, and select self–expanding file ''T11FR00.EXE'' in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.treas.gov/ofac, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

On August 25, 1997, the Office of Foreign Assets Control of the Treasury Department (''OFAC'') promulgated the Reporting and Procedures Regulations, 31 CFR part 501 (the ''Regulations''), to simplify, by consolidating and standardizing in a single part, common provisions on collections of information in existing OFAC regulations. Section 501.807 of the Regulations described a procedure to be followed by a person seeking administrative reconsideration of its designation or that of a vessel as blocked, or who wished to assert that the circumstances resulting in the designation are no longer applicable. Section 501.807 is amended to modify the procedure set forth in that section.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553)(the ''APA'') requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

List of Subjects in 31 CFR Part 501

Administrative practice and procedure, Banks, banking, Blocking of assets, Foreign trade, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 31 CFR part 501 is amended as set forth below:

PART 501—REPORTING AND PROCEDURES REGULATIONS

1. The authority citation for part 501 continues to read as follows:

Authority: 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; 50 U.S.C. App. 1–44.

Subpart D -- Procedures

2. Section 501.807 is revised to read as follows:

§ 501.807. Procedures governing removal of names from appendices A, B, and C to this chapter.

A person may seek administrative reconsideration of his, her or its designation or that of a vessel as

blocked, or assert that the circumstances resulting in the designation no longer apply, and thus seek to have the designation rescinded pursuant to the following administrative procedures:

(a) A person blocked under the provisions of any part of this chapter, including a specially designated national, specially designated terrorist, or specially designated narcotics trafficker (collectively,''a blocked person''), or a person owning a majority interest in a blocked vessel may submit arguments or evidence that the person believes establishes that insufficient basis exists for the designation. The blocked person also may propose remedial steps on the person's part, such as corporate reorganization, resignation of persons from positions in a blocked entity, or similar steps, which the person believes would negate the basis for designation. A person owning a majority interest in a blocked vessel may propose the sale of the vessel, with the proceeds to be placed into a blocked interest–bearing account after deducting the costs incurred while the vessel was blocked and the costs of the sale. This submission must be made in writing and addressed to the Director, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220.

(b) The information submitted by the blocked person seeking unblocking or by a person seeking the unblocking of a vessel will be reviewed by the Office of Foreign Assets Control, which may request clarifying, corroborating, or other additional information.

(c) A blocked person seeking unblocking or a person seeking the unblocking of a vessel may request a meeting with the Office of Foreign Assets Control; however, such meetings are not required, and the office may, at its discretion, decline to conduct such meetings prior to completing a review pursuant to this section.

(d) After the Office of Foreign Assets Control has conducted a review of the request for reconsideration, it will provide a written decision to the blocked person or person seeking the unblocking of a vessel.

Dated: January 6, 1999.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 20, 1999.

Elisabeth A. Bresee,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 99–2571 Filed 1–29–99; 3:55 pm]

BILLING CODE 4810–25–F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–47

[FPMR Amendment H–201]

RIN 3090–AG60

Utilization and Disposal of Real Property

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration is amending the public benefit conveyance regulations for utilization and disposal of real property to update the Federal Property Management Regulations and to include implementation regulations for new laws. The new regulations incorporate the public benefit conveyance of surplus Federal Government real property for housing, law enforcement, and emergency management purposes. The laws that this regulation implements are Pub. L. 105–50, Pub. L. 105–119 Sec. 118, Pub. L. 98–181, 97 Stat. 1175, and Federal Property and Administrative Services Act amendments to 203(k) and 203(p).

EFFECTIVE DATE: February 4, 1999.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Real Property Policy Division, Office of Real Property, at 202–501–1737.

SUPPLEMENTARY INFORMATION:

A. Background

A proposed rule was published in the **Federal Register** on August 11, 1998 (63 FR 42792). All comments received were considered in the final rule. The Department of Defense provided a comment regarding the repeal of § 101–47.308–5 (Property for use as shrines, memorials, or for religious purposes) and its potential impact on current surplus real property actions. GSA agrees that actions that have begun on existing surplus real property may continue to conclusion; however, this authority will not be available to use in disposal actions on future surplus real property. A nonprofit self-help housing organization provided comments regarding the provisions for the notice period and the role of the Department of Housing and Urban Development (HUD) in the event that conveyed surplus property is reverted to the Federal Government. GSA adopted the comment to extend the notice period but not the expanded HUD role comment because HUD has not yet determined their program regulations as they relate to the reversionary clause provision. The Department of Justice also provided comments regarding the time periods for conveyance. GSA adopted an extension of the time period for the notice period but not for other time periods due to GSA programmatic issues regarding consistency with other real property public benefit conveyances.

B. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act does not apply.

C. Executive Order 12866

GSA has determined that this interim rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 501 *et seq.*

E. Small Business Reform Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 101–47

Government property management, Surplus Government property.

For the reasons stated in the preamble, 41 CFR part 101–47 is amended as follows:

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

1. The authority citation for part 101–47 continues to read as follows:

Authority: 40 U.S.C. 486(c).

§ 101–47.103–4 [Reserved]

2. Section 101–47.103–4 is removed and reserved.

3. Section 101–47.203–5 is amended by revising paragraphs (b) and (c) to read as follows:

§ 101–47.203–5 Screening of excess real property.

* * * * *

(b) Notices of availability for information of the Secretary of Health and Human Services and the Secretary of Education in connection with the exercise of the authority vested under the provisions of section 203(k)(1) of the Act; the Secretary of the Interior in

connection with provisions in 16 U.S.C. 667b through d, the exercise of the authority vested under the provisions of section 203(k)(2) of the Act, or a determination under the provisions of section 203(k)(3) of the Act; and the Secretary of Housing and Urban Development in connection with the exercise of the authority vested under the provisions of section 203(k)(6) of the Act will be sent to the offices designated by those officials to serve the areas in which the properties are located. Similar notices of availability for information of the Attorney General and the Director of the Federal Emergency Management Agency in connection with a possible determination under the provisions of section 203(p)(1) of the Act, and for information of the Secretary of Transportation in connection with the exercise of the authority vested under the provisions of section 203(q) of the Act, will be respectively sent to the Office of Justice Programs, Department of Justice; the Federal Emergency Management Agency; and the Maritime Administration, Department of Transportation.

(c) The Departments of Health and Human Services, Education, Interior, Housing and Urban Development, Justice, and Transportation, and the Federal Emergency Management Agency shall not attempt to interest a local applicant in a property until it is determined surplus, except with the prior consent of GSA on a case-by-case basis or as otherwise agreed upon. When such consent is obtained, the local applicant shall be informed that consideration of the application is conditional upon the property being determined surplus to Federal requirements and made available for the purposes of the application. However, these Federal agencies are encouraged to advise the appropriate GSA regional office of those excess properties which are suitable for their programs.

* * * * *

4. Section 101–47.204–1 is amended by revising the first sentence in paragraph (a), and paragraphs (b) and (c) to read as follows:

§ 101–47.204–1 Reported property.

* * * * *

(a) The holding agency, the Secretary of Health and Human Services, the Secretary of Education, the Secretary of the Interior, the Secretary of Housing and Urban Development, the Attorney General, the Director of the Federal Emergency Management Agency, and the Secretary of Transportation will be notified of the date upon which determination as surplus becomes effective. * * *

(b) The notices to the Secretary of Health and Human Services, the Secretary of Education, the Secretary of the Interior, the Secretary of Housing and Urban Development, and the Secretary of Energy will be sent to the offices designated by them to serve the area in which the property is located. The notices to the Attorney General will be sent to the Office of Justice Programs, Department of Justice. The notices to the Director of the Federal Emergency Management Agency will be sent to the Federal Emergency Management Agency. The notices to the Secretary of Transportation will be sent to the Federal Aviation Administration, the Federal Highway Administration, and the Maritime Administration. The notices to the Federal agencies having a requirement pursuant to section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will be sent to the office making the request unless another office is designated.

(c) With regard to surplus property which GSA predetermines will not be available for disposal under any of the statutes cited in § 101–47.4905, or whenever the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act, the notice to the affected Federal agencies will contain advice of such determination or request for reimbursement. The affected Federal agencies shall not screen for potential applicants for such property.

5. Section 101–47.303–2 is amended by revising paragraphs (e), (f), and (g) to read as follows:

§ 101–47.303–2 Disposals to public agencies.

* * * * *

(e) In the case of property which may be made available for assignment to the Secretary of Health and Human Services (HHS), the Secretary of Education (ED), the Secretary of the Interior (DOI), or the Secretary of Housing and Urban Development (HUD) for disposal under sections 203(k)(1), (2), or (6) of the Act:

(1) The disposal agency shall inform the appropriate offices of HHS, ED, NPS, or HUD 3 workdays in advance of the date the notice will be given to public agencies, to permit similar notice to be given simultaneously by HHS, ED, NPS, or HUD to additional interested public bodies and/or nonprofit institutions.

(2) The disposal agency shall furnish the Federal agencies with a copy of the postdated transmittal letter addressed to each public agency, copies (not to exceed 25) of the postdated notice, and a copy of the holding agency's Report of Excess Real Property (Standard Form 118, with accompanying schedules).

(3) As of the date of the transmittal letter and notice to public agencies, the affected Federal agencies may proceed with their screening functions for any potential applicants and thereafter may make their determinations of need and receive applications.

(f) If the disposal agency is not informed within the 20- or 30-calendar day period provided in the notice of the desire of a public agency to acquire the property under the provisions of the statutes listed in § 101–47.4905, or is not notified by ED or HHS of a potential educational or public health use, or is not notified by the DOI of a potential park or recreation, historic monument, or wildlife conservation use, or is not notified by the HUD of a potential self-help housing or housing assistance requirement, or is not notified by the Department of Justice of a potential correctional facilities or law enforcement use, or is not notified by the Federal Emergency Management Agency of a potential emergency management response use; or is not notified by the Department of Transportation of a potential port facility or public airport use, it shall be assumed that no public agency or otherwise eligible organization desires to procure the property. (The requirements of this § 101–47.303–2(f) shall not apply to the procedures for making Federal surplus real property available to assist the homeless in accordance with section 501 of the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11411).)

(g) The disposal agency shall promptly review each response of a public agency to the notice given pursuant to paragraph (b) of this section. The disposal agency shall determine what constitutes a reasonable period of time to allow the public agency to develop and submit a formal application for the property or its comments as to the compatibility of the disposal with its development plans and programs. When making such determination, the disposal agency shall give consideration to the potential suitability of the property for the use proposed, the length of time the public agency has stated it will require for its action, the protection and maintenance costs to the Government during such length of time, and any other relevant facts and circumstances. The disposal agency shall coordinate such review and determination with the proper office of any interested Federal agencies listed below:

(1) National Park Service, Department of the Interior;
(2) Department of Health and Human Services;
(3) Department of Education;
(4) Department of Housing and Urban Development;
(5) Federal Aviation Administration, Department of Transportation;
(6) Fish and Wildlife Service, Department of the Interior;
(7) Federal Highway Administration, Department of Transportation;
(8) Office of Justice Programs, Department of Justice;
(9) Federal Emergency Management Agency; and
(10) Maritime Administration, Department of Transportation.

* * * * *

§ 101–47.308–5 [Reserved]

6. Section 101–47.308–5 is removed and reserved.

7. Section 101–47.308–6 is revised to read as follows:

§ 101–47.308–6 Property for providing self-help housing or housing assistance.

(a) Property for self-help housing or housing assistance, as defined in section 203(k)(6)(C) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C.), is property for low-income housing opportunities through the construction, rehabilitation, or refurbishment of self-help housing, under terms that require that:

(1) Any individual or family receiving housing or housing assistance constructed, rehabilitated, or refurbished through use of the property shall contribute a significant amount of labor toward the construction, rehabilitation, or refurbishment; and

(2) Dwellings constructed, rehabilitated, or refurbished through use of the property shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below prevailing market prices.

Note to paragraph (a): This program is separate from the program under Title V of the Stewart B. McKinney Act of 1987, which is covered in 41 CFR subpart 101–47.9 (Use of Federal Real Property To Assist the Homeless).

(b) The head of the disposal agency, or his/her designee, is authorized, at his/her discretion to assign to the Secretary of the Department of Housing and Urban Development (HUD) for disposal under section 203(k)(6) of the Act such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for providing self-help housing or housing assistance for low-income individuals or families.

(c) With respect to real property and related personal property which may be made available for assignment to HUD for disposal under section 203(k)(6) of the Act for self-help housing or housing assistance purposes, the disposal agency shall notify eligible public agencies, in accordance with the provisions of § 101–47.303–2, that such property has been determined to be surplus. Such notice to eligible public agencies shall state that any planning for self-help housing or housing assistance use involved in the development of the comprehensive and coordinated plan of use and procurement for the property must be coordinated with HUD and that an application form for such use of the property and instructions for the preparation and submission of an application may be obtained from HUD. The requirement for self-help housing or housing assistance use of the property by an eligible public agency will be contingent upon the disposal agency's approval under paragraph (j) of this section and a recommendation for assignment of Federal surplus real property received from HUD. Any subsequent transfer shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(k)(6)(B) of the Act and referenced in paragraph (k) of this section.

(d) With respect to surplus real property and related personal property which may be made available for assignment to HUD for disposal under section 203(k)(6) of the Act for self-help housing or housing assistance purposes to nonprofit organizations that exist for the primary purpose of providing housing or housing assistance for low-income individuals or families, HUD may notify such eligible nonprofit organizations, in accordance with the provisions of § 101–47.303–2(e), that such property has been determined to be surplus. Any such notice to eligible nonprofit organizations shall state that any requirement for housing or housing assistance use of the property should be coordinated with the public agency declaring to the disposal agency an intent to develop and submit a comprehensive and coordinated plan of use and procurement for the property. The requirement for self-help housing or housing assistance use of the property by an eligible nonprofit organization will be contingent upon the disposal agency's approval, under paragraph (j) of this section, of an assignment recommendation received from HUD, and any subsequent transfer shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(k)(6)(B) of the Act and referenced in paragraph (k) of this section.

(e) HUD shall notify the disposal agency within 30-calendar days after the date of the notice of determination of surplus if it has an eligible applicant interested in acquiring the property. Whenever HUD has notified the disposal agency within the 30-calendar day period of a potential self-help housing or housing assistance requirement for the property, HUD shall submit to the disposal agency within 25-calendar days after the expiration of the 30-calendar day period, a recommendation for assignment of the property, or shall inform the disposal agency, within the 25-calendar day period, that a recommendation will not be made for assignment of the property.

(f) Whenever an eligible public agency has submitted a plan of use for property for a self-help housing or housing assistance requirement, in accordance with the provisions of § 101–47.303–2, the disposal agency shall transmit two copies of the plan to the regional office of HUD. HUD shall submit to the disposal agency, within 25-calendar days after the date the plan is transmitted, a recommendation for assignment of the property to the Secretary of HUD, or shall inform the disposal agency, within the 25-calendar day period, that a recommendation will not be made for assignment of the property to HUD.

(g) Any assignment recommendation submitted to the disposal agency by HUD shall set forth complete information concerning the self-help housing or housing assistance use, including:

(1) Identification of the property;
(2) Name of the applicant and the size and nature of its program;
(3) Specific use planned;
(4) Intended public benefit allowance;
(5) Estimate of the value upon which such proposed allowance is based; and
(6) If the acreage or value of the property exceeds the standards established by the Secretary, an explanation therefor.

Note to paragraph (g): HUD shall furnish to the holding agency a copy of the recommendation, unless the holding agency is also the disposal agency.

(h) Holding agencies shall cooperate to the fullest extent possible with representatives of HUD in their inspection of such property and in furnishing information relating thereto.

(i) In the absence of an assignment recommendation from HUD submitted pursuant to § 101–47.308–6(e) or (f), and

received within the 25-calendar day time limit specified therein, the disposal agency shall proceed with other disposal actions.

(j) If, after considering other uses for the property, the disposal agency approves the assignment recommendation from HUD, it shall assign the property by letter or other document to the Secretary of HUD. If the recommendation is disapproved, the disposal agency shall likewise notify the Secretary of HUD. The disposal agency shall furnish to the holding agency a copy of the assignment, unless the holding agency is also the disposal agency.

(k) Subsequent to the receipt of the disposal agency's letter of assignment, HUD shall furnish to the disposal agency a Notice of Proposed Transfer in accordance with section 203(k)(6)(B) of the Act. If the disposal agency has not disapproved the proposed transfer within 30-calendar days of the receipt of the Notice of Proposed Transfer, HUD may proceed with the transfer.

(l) HUD shall furnish the Notice of Proposed Transfer within 35-calendar days after the disposal agency's letter of assignment and shall prepare the transfer documents and take all necessary actions to accomplish the transfer within 15-calendar days after the expiration of the 30-calendar day period provided for the disposal agency to consider the notice. HUD shall furnish the disposal agency two conformed copies of deeds, leases or other instruments conveying the property under section 203(k)(6) of the Act and all related documents containing restrictions or conditions regulating the future use, maintenance or transfer of the property.

(m) HUD has the responsibility for enforcing compliance with the terms and conditions of transfer; for the reformation, correction, or amendment of any transfer instrument; for the granting of releases; and for the taking of any necessary actions for recapturing such property in accordance with the provisions of section 203(k)(4) of the Act. HUD maintains the same responsibility for properties previously conveyed under section 414(a) of the 1969 HUD Act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency by HUD of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

(n) If any property previously conveyed under section 414(a) of the 1969 HUD Act, as amended, to an entity other than a public body is used for any purpose other than the purpose for which it was sold or leased within a period of 30 years of the conveyance, it shall revert to the United States (or, in the case of leased property, the lease shall terminate) unless the appropriate Secretary (HUD or the Secretary of Agriculture (USDA)) and the Administrator of General Services, after the expiration of the first 20 years of such period, approve the use of the property for such other purpose.

(o) In each case of repossession under a terminated lease or reversion of title by reason of noncompliance with the terms or conditions of sale or other cause, HUD (or USDA for property conveyed through the former Farmers Home Administration program under section 414(a) of the 1969 HUD Act) shall, at or prior to such repossession or reversion of title, provide the appropriate GSA regional office with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and the appropriate schedules shall be used for this purpose. Upon receipt of advice from HUD (or USDA) that such property has been repossessed or title has reverted, GSA will act upon the Standard Form 118. The grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101–47.4913.

8. Section 101–47.308–9 is amended by revising the section heading, paragraphs (a) through (g), and paragraphs (j) and (k) to read as follows:

§ 101–47.308–9 Property for correctional facility, law enforcement, or emergency management response purposes.

(a) Under section 203(p)(1) of the Act, the head of the disposal agency or designee may, in his/her discretion, convey, without monetary consideration, to any State, or to those governmental bodies named therein, or to any political subdivision or instrumentality thereof, surplus real and related personal property for:

(1) Correctional facility purposes, provided the Attorney General has determined that the property is required for such purposes and has approved an appropriate program or project for the care or rehabilitation of criminal offenders;

(2) Law enforcement purposes, provided the Attorney General has determined that the property is required for such purposes; and

(3) Emergency management response purposes, including fire and rescue services, provided the Director of the Federal Emergency Management Agency has determined that the property is required for such purposes.

(b) The disposal agency shall provide prompt notification to the Office of Justice Programs (OJP), Department of Justice (DOJ), and the Federal Emergency Management Agency (FEMA) of the availability of surplus properties. Included in the notification to OJP and FEMA will be a copy of the holding agency's Standard Form 118, Report of Excess Real Property, with accompanying schedules.

(c) With respect to real property and related personal property which may be made available for disposal under section 203(p)(1) of the Act for correctional facility, law enforcement, or emergency management response purposes, OJP or FEMA shall convey notices of availability of properties to the appropriate State and local public agencies. Such notice shall state that any planning for correctional facility, law enforcement, or emergency management response use involved in the development of a comprehensive and coordinated plan of use and procurement for the property must be coordinated and approved by the OJP or FEMA, as appropriate, and that an application form for such use of the property and instructions for the preparation and submission of an application may be obtained from OJP or FEMA. OJP defines the term ''law enforcement'' to mean ''any activity involving the control or reduction of crime and juvenile delinquency, or enforcement of the criminal law, including investigative activities such as laboratory functions as well as training.'' The requirement for correctional facility, law enforcement, or emergency management response use of the property by an eligible public agency will be contingent upon the disposal agency's approval under paragraph (g) of this section of a determination:

(1) By DOJ that identifies surplus property required for correctional facility use under an appropriate program or project for the care of rehabilitation of criminal offenders, or for law enforcement use; or

(2) By FEMA that identifies surplus property required for emergency management response use.

(d) OJP or FEMA shall notify the disposal agency within 30-calendar days after the date of the notice of determination of surplus if there is an eligible applicant interested in acquiring the property. Whenever OJP or FEMA

has notified the disposal agency within the said 30-calendar day period of a potential correctional facility, law enforcement, or emergency management response requirement for the property, OJP or FEMA shall submit to the disposal agency within 25-calendar days after the expiration of the 30-calendar day period, a determination indicating a correctional facility requirement for the property and approving an appropriate program or project for the care or rehabilitation of criminal offenders, a law enforcement requirement, or an emergency management response requirement, or shall inform the disposal agency, within the 25-calendar day period, that the property will not be required for correctional facility, law enforcement, or an emergency management response use.

(e) Any determination submitted to the disposal agency by DOJ or FEMA shall set forth complete information concerning the correctional facility, law enforcement, or emergency management response use, including:

(1) Identification of the property;

(2) Certification that the property is required for correctional facility, law enforcement, or emergency management response use;

(3) A copy of the approved application which defines the proposed plan of use; and

(4) The environmental impact of the proposed correctional facility, law enforcement, or emergency management response use.

(f) Both holding and disposal agencies shall cooperate to the fullest extent possible with Federal and State agency representatives in their inspection of such property and in furnishing information relating thereto.

(g) If, after considering other uses for the property, the disposal agency approves the determination by DOJ or FEMA, it shall convey the property to the appropriate grantee. If the determination is disapproved, or in the absence of a determination from DOJ or FEMA submitted pursuant to § 101–47.308–9(d), and received within the 25-calendar day time limit specified therein, the disposal agency shall proceed with other disposal actions. The disposal agency shall notify OJP or FEMA 10 days prior to any announcement of a determination to either approve or disapprove an application for correctional, law enforcement, or emergency management response purposes and shall furnish to OJP or FEMA a copy of the conveyance documents.

* * * * *

(j) The OJP or FEMA will notify GSA upon discovery of any information indicating a change in use and, upon request, make a redetermination of continued appropriateness of the use of a transferred property.

(k) In each case of repossession under a reversion of title by reason of noncompliance with the terms of the conveyance documents or other cause, OJP or FEMA shall, at or prior to such repossession, provide the appropriate GSA regional office with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and the appropriate schedules shall be used for this purpose. Upon receipt of advice from OJP or FEMA that such property has been repossessed and/or title has reverted, GSA will act upon the Standard Form 118. The grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101–47.4913.

§ 101–47.4905 [Amended]

9. Section 101–47.4905 is amended as follows:

a. In the paragraphs headed ''Type of property'' under the listings for Statutes 40 U.S.C. 484(k)(2), 40 U.S.C. 484(k)(3), and 40 U.S.C. 484(q), remove the phrase ''military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of § 101–47.308–5; and (4)'' wherever it appears.

b. Add paragraphs headed ''Statute'', ''Type of property'', and ''Eligible public agencies'' for statute citation 40 U.S.C. 484(k)(6) in numerical order as set forth below.

c. Revise the paragraphs headed ''Statute'', ''Type of property'', and ''Eligible public agencies'' for statute citation 40 U.S.C. 484(p) as set forth below.

d. In the paragraph headed ''Type of property'' under the listing for 49 U.S.C. 47151, remove the phrase ''military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of Sec. 101–47.308–5; and (3)''; and remove the numbers ''(4)'' and ''(5)'' and add in their place ''(3)'' and ''(4)'' respectively.

§ 101–47.4905 Extract of statutes authorizing disposal of surplus real property to public agencies.

* * * * *

Statute: 40 U.S.C. 484(k)(6). Disposals for self-help housing and housing assistance.

Type of property:* Any surplus real and related personal property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) oil, gas, and mineral rights; (2) improvements without land; and (3) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act. Before property may be conveyed under this statute, the Secretary of the Housing and Urban Development must recommend that the property is needed for providing self-help housing or housing assistance for low-income individuals or families.

Eligible public agencies: Any State, any political subdivision or instrumentality of a State, or any nonprofit organization that exists for the primary purpose of providing self-help housing or housing assistance for low-income individuals or families.

Statute: 40 U.S.C. 484(p). Disposals for correctional facility, law enforcement, or emergency management response purposes.

Type of property:* Any surplus real and related personal property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) oil, gas, and mineral rights; (2) improvements without land; and (3) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act. Before property may be conveyed under this statute, the Attorney General must determine that the property is required for correctional facility use under an appropriate program or project approved by the Attorney General for the care or rehabilitation of criminal offenders or for law enforcement use. Before property may be conveyed under this statute for emergency management response use, the Director of the Federal Emergency Management Agency must determine that the property is required for such use.

Eligible public agencies: Any State; the District of Columbia; any territory or possession of the United States; and any political subdivision or instrumentality thereof.

* * * * *

§ 101–47.4906 [Amended]

10. Amend § 101–47.4906 as follows:

a. In the list of statutes, add the statute citation ''40 U.S.C. 484(k)(6) Self-help housing and housing assistance.'' after ''40 U.S.C. 484(k)(3) Historic monument.''.

b. In the list of statutes, revise the title of 40 U.S.C. 484(p) to read as follows: ''Correctional facility, law enforcement, or emergency management response.''.

Dated: January 6, 1999.

David J. Barram,

Administrator of General Services.

[FR Doc. 99–2614 Filed 2–3–99; 8:45 am]

BILLING CODE 6820–23–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1804, 1807, 1808, 1813, 1816, 1819, 1827, 1832, 1833, 1836, 1844, 1852 and 1853

Miscellaneous Revisions to the NASA FAR Supplement

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This rule amends the NASA Federal Acquisition Regulation Supplement (NFS) to make editorial corrections and miscellaneous changes dealing with NASA internal and administrative matters.

EFFECTIVE DATE: February 4, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Toole, (202) 358–0478; e-mail: *thomas.otoole@.hq.nasa.gov*.

SUPPLEMENTARY INFORMATION:

Background

A number of administrative changes are made. These changes include: (1) Revising the responsibilities for posting data of the Acquisition Forecast on the internet; (2) updating the Department of Energy (DOE) form for acquiring radioisotopes; (3) changing subpart titles, section headings, and section numbers due to changes made by Federal Acquisition Circulars (FAC) 97–09 and 97–10; (5) raising the dollar threshold for consideration of the need for surveillance of subcontracts resulting from contract modifications and change orders to a threshold equal to that for obtaining cost or pricing data; and (6) updating a reference to an internal document on records retention. None of these administrative changes has an impact outside internal Agency operating procedures.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the changes affect internal Agency procedures only. This final rule does not impose any reporting or recordkeeping requirements subject to the Paper Reduction Act.

List of Subjects in 48 CFR Parts 1804, 1807, 1808, 1813, 1816, 1819, 1827, 1832, 1833, 1836, 1844, 1852 and 1853

Government procurement.

Thomas S. Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1804, 1807, 1808, 1813, 1816, 1819, 1827, 1832, 1833, 1836, 1844, 1852 and 1853 are amended as follows:

1. The authority citation for 48 CFR Parts 1804, 1807, 1808, 1813, 1816, 1819, 1827, 1832, 1833, 1836, 1844, 1852 and 1853 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1804—ADMINISTRATIVE MATTERS

1804.805 [Amended]

2. In section 1804.805, paragraph (a) is revised to read:

1804.805 Storage, handling, and disposal of contract files.

(a) See NPG 1441.1C, Records Retention Schedules.

1804.805–70 [Amended]

3. In paragraph (b)(2) to section 1804.805–70, the reference ''NHB 1441.1, NASA Records Disposition Handbook'' is revised to read ''NPG 1441.1C, Records Retention Schedules''.

PART 1807—ACQUISITION PLANNING

1807.7203 [Amended]

4. Section 1807.7203 is revised to read as follows:

1807.7203 Responsibilities.

(a) NASA Procurement Officers shall post the data required by 1807.7204 directly to the NASA Acquisition Internet Service not later than October 1 for the annual forecast and April 15 for the semiannual update.

(b) Code HS will manage policy and monitor compliance with the NASA Acquisition Forecast process.

PART 1808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

1808.002–70 [Amended]

5. Section 1808.002–70 is revised to read as follows:

1808.002–70 Acquisition of radioisotopes.

(a) U.S. Department of Energy Isotope and Technical Service Order Form CA–10–90.COM, and U.S. Nuclear Regulatory Commission Application for Material License, NRC Form 313, shall be used to acquire radioisotopes.

(b) NRC Form 313 shall be filed with the Chief, Radioisotopes Licensing Branch, Division of Fuel Cycle and Material Safety, United States Nuclear Regulatory Commission, Washington, DC 20555. If the application meets all regulatory requirements and applicable standards, the Radioisotopes Licensing Branch, Nuclear Regulatory Commission, will issue a license to the applicant. After receipt of the license, a completed DOE Form CA–10–90.COM (in duplicate, if the contracting office wants an accepted copy of the form back from the supplier), the license, and a Government bill of lading shall be sent to the appropriate DOE laboratory. If a bill of lading is not furnished, shipment shall be made collect on a commercial bill of lading, to be converted at destination.

(c) NRC Form 313 and DOE Form CA–10–90.COM may be requisitioned directly from the United States Nuclear Regulatory Commission, Attn: Radioisotopes Licensing Branch, Division of Fuel Cycle and Material Safety, Washington, DC 20555.

(d) Guidance is available from NRC at URL http://www.nrc.gov/NRC/contents/#top and from DOE at URL http://www.ornl.gov/isotopes/catalog.htm.

PART 1813—SIMPLIFIED ACQUISITION PROCEDURES

1813.003 [Amended]

6–7. In section 1813.003, paragraph (h) is redesignated as paragraph (g).

PART 1816—TYPES OF CONTRACTS

1816.203–4 [Amended]

8. In paragraph (d)(2) to section 1816.203–4, the reference ''Code HC'' is revised to read ''Code HK''.

PART 1819—SMALL BUSINESS PROGRAMS

Subpart 1819.3 [Amended]

9. In Subpart 1819.3, the subpart heading is revised to read ''Determination of Status as a Small Business, HUBZone Small Business, or Small Disadvantaged Business Concern''.

1819.506 [Amended]

10. In section 1819.506, the section heading is revised to read ''Withdrawing or modifying small business set-asides (NASA supplements paragraph (b))''.

Subpart 1819.7 [Amended]

11. In Subpart 1819.7, the subpart heading is revised to read ''The Small Business Subcontracting Program''.

1819.708 [Amended]

12. In section 1819.708, the section heading is revised to read ''Contract clauses'' (NASA supplements paragraph (b)).

PART 1827—PATENTS, DATA, AND COPYRIGHTS

1827.406–70 [Amended]

13. In section 1827.406–70, paragraph (c) is revised to read as follows:

1827.406–70 Reports of work.

* * * * *

(c) A reproducible copy and a printed or reproduced copy of the reports shall be sent to the NASA Center for AeroSpace Information (CASI) in accordance with the clause at 1852.235–70, Center for AeroSpace Information (see 1835.070(a)).

PART 1832—CONTRACT FINANCING

1832.908 [Amended]

14. Section 1832.908 is revised to read as follows:

1832.908 Contract clauses. (NASA supplements paragraph (c).)

(c)(3) When the clause at FAR 52.232–25, Prompt Payment, is used in such contracts with the Canadian Commercial Corporation (CCC), insert ''17th'' in lieu of ''30th'' in paragraphs (a)(1)(i)(A), (a)(1)(i)(B), and (a)(1)(ii).

1832.970 [Removed]

15. Section 1832.970 is removed.

PART 1833—PROTESTS, DISPUTES, AND APPEALS

1833.104 [Amended]

16. In section 1833.104, paragraph (c)(2) is revised to read as follows:

1833.104 Protests to GAO.

* * * * *

(c) * * *

(2) The Associate Administrator for Procurement (Code HS) is the appproval authority for authorizing contract performance.

* * * * *

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

1836.213–70 [Amended]

17. Section 1836.213–70 is redesignated as 1836.213–370.

PART 1844—SUBCONTRACTING POLICIES AND PROCEDURES

18. In section 1844.201–1, paragraph (a)(iii) is revised to read as follows:

1844.201–1 Consent requirements.

(a) * * *

(iii) The contracting officer shall document results of the review in the contract file. For contract modifications and change orders, the contracting officer shall make the determination required by paragraph (a)(ii) of this section whenever the value of any subcontract resulting from the change order or modification is proposed to exceed the dollar threshold for obtaining cost or pricing data (see FAR 15.403–4(a)(1)) or is one of a number of subcontracts with a single subcontractor for the same or related supplies or services that are expected cumulatively to exceed the dollar threshold for obtaining cost or pricing data.

* * * * *

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.235–70 [Amended]

19. In the introductory language to section 1852.235–70, the reference ''1827.409(i) and'' is removed.

PART 1853—FORMS

1853.208–70 [Amended]

20. The section heading of 1853.208–70, is revised and paragraph (c) is revised to read as follows:

1852.208–70 Other Government sources (Standard Form 1080, Air force Form 858, Department of Energy Form CA–10–90.COM, Nuclear Regulatory Commission Form 313).

* * * * *

(c) U.S. Department of Energy Isotope and Technical Service Order Form CA–10–90.COM. Prescribed in 1808.002–70(a).

* * * * *

[FR Doc. 99–2472 Filed 2–3–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 800

Organization and Functions of the Board and Delegations of Authority

AGENCY: National Transportation Safety Board.

ACTION: Final rules; Corrections.

SUMMARY: The Board is correcting three inadvertent errors that appeared in the December 29, 1998 **Federal Register** publication of these final rules.

DATES: The corrected rules were effective January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 314–6080.

SUPPLEMENTARY INFORMATION: The December 29, 1998 **Federal Register,** at pages 71605–71606, contained various updates to these organizational rules. In the process, three inadvertent errors occurred, which we are now correcting.

Accordingly, the following corrections are made:

PART 800—ORGANIZATION AND FUNCTIONS OF THE BOARD

1. On page 71605 of the **Federal Register** of December 29, 1998, section 800.2(b) in the second column, the ninth line of paragraph (b), the word ''considering'' is corrected to read ''concerning.''

2. On page 71605 of the **Federal Register** of December 29, 1998, section 800.2(d) is corrected to strike the word ''Administration'' in the last line of the page's second column of text.

3. On page 71606 of the **Federal Register** of December 29, 1998, in the first column of text, the fifth line of section 800.2(j), the word ''date'' is corrected to read ''data.''

Issued in Washington, DC this 27th day of January, 1999.

Daniel D. Campbell,

General Counsel.

[FR Doc 99–2601 Filed 2–3–99; 8:45 am]

BILLING CODE 7533–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 835

Testimony of Board Employees

AGENCY: National Transportation Safety Board.

ACTION: Final rules; corrections.

SUMMARY: The Board is correcting two typographical errors in the December 29, 1998 publication of these final rules.

DATES: The corrected rules were effective January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 314–6080.

SUPPLEMENTARY INFORMATION: **Federal Register,** Volume 63, No. 249, published Tuesday, December 29, 1998, at pages 71606–71608 contained revisions to these rules governing employee testimony. There were two typographical errors in that publication. In the third line of the definition of ''Board accident report'' in section 835.2, the word ''probably'' should be ''probable.'' In the second sentence of section 835.3(c), ''Board employees'' should read ''current Board employees.''

Accordingly, the following corrections to 49 CFR Part 835 are made.

PART 835—TESTIMONY OF BOARD EMPLOYEES

1. On page 71607 of the **Federal Register** of December 29, 1998, section 835.2 in the first column, in the third line of the definition of ''Board accident report,'' the word ''probably'' is corrected to read ''probable.''

2. On page 71607 of the **Federal Register** of December 29, 1998, section 835.3(c), line 5 of the second column, the phrase ''Board employees'' is corrected to read ''current Board employees.''

Issued in Washington, DC this 27th day of January, 1999.

Daniel D. Campbell,

General Counsel.

[FR Doc. 99–2602 Filed 2–3–99; 8:45 am]

BILLING CODE 7533–01–M

Proposed Rules

Federal Register
Vol. 64, No. 23
Thursday, February 4, 1999

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AE97

Shutdown and Low-Power Operations for Nuclear Power Reactors

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule: withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission is withdrawing a proposed rule for Shutdown and Low-Power Operations for Nuclear Power Reactors. The proposed rule would have required licensees to ensure that the following safety functions were maintained during shutdown and low-power operations. These safety functions were reactivity control, inventory control, decay heat removal, and containment integrity.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Weiss, U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, MS O–8 E23, Washington, DC 20555–0001, Telephone 301–415–3264.

SUPPLEMENTARY INFORMATION: On October 19, 1994, the Commission published the proposed rule, ''Shutdown and Low-Power Operations for Nuclear Power Reactors'' (59 FR 52707–52714). In this **Federal Register** document, the Commission proposed regulatory requirements that would set minimum standards for shutdown and low-power operations.

The comment period expired on February 3, 1995. The Commission received a significant number of comments from the nuclear industry and a few comments from the public on the proposed rule, the majority of which were negative.

The Commission has decided not to proceed with a final rule at this time. In view of current industry performance and the regulatory controls in the area of maintenance generally, the Commission does not believe that regulatory requirements specifically addressed to low-power and shutdown operations are needed at this time. However, the Commission will continue to monitor industry performance and may take further action if any adverse trends are identified.

Dated at Rockville, Maryland, this 29th day of January, 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–2627 Filed 2–3–99; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–23, RM–9423]

Radio Broadcasting Services; Tipton, Mangum and Eldorado, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Good Government Radio seeking the allotment of Channel 249C2 to Tipton, OK, as the community's first local aural service. To accommodate the allotment at Tipton, petitioner also requests the substitution of Channel 282A for Channel 249A at Mangum, OK, the modification of Station KHIM's license accordingly, and the substitution of Channel 245A for unoccupied and unapplied for Channel 246A at Eldorado, OK. Channel 249C2 can be allotted to Tipton in compliance with the Commission's minimum distance separation requirements with a site restriction of 23.8 kilometers (14.8 miles) west, at coordinates 34–34–53 NL; 99–22–55 WL, to avoid short-spacings to Channel 248C2 at Archer City, TX, which is reserved for Station KRZB, to Station KGOK-FM, Channel 249C3, Pauls Valley, OK, and its proposed reallotment to Healdton, OK, and to Station KJMZ, Channel 251C1, Lawton, OK. Channel 282A can be allotted to Mangum, at Station KHIM's licensed transmitter site, at coordinates 34–52–27; 99–30–04. Channel 245A can be allotted to Eldorado without the imposition of a site restriction, at coordinates 34–28–24; 99–38–54.

DATES: Comments must be filed on or before March 15, 1999, and reply comments on or before March 30, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Ellinor Nelson, Good Government Radio, P.O. Box 478, Gonzalez, FL 32560 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making and Order to Show Cause, MM Docket No. 99–23, adopted January 13, 1999, and released January 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2617 Filed 2–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–4, RM–9429]

Radio Broadcasting Services; Cannon Ball, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by High Plains Broadcasting, Inc. to allot Channel 298C to Cannon Ball, ND, as the community's first local aural service. Channel 298C can be allotted to Cannon Ball in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 46–24–48 NL; 100–38–12 WL. Canadian concurrence in the allotment is required since Cannon Ball is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 15, 1999, and reply comments on or before March 30, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson, L.L.P., 555 Thirteenth Street, N.W., Washington, D.C. 20004–1109 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–4, adopted January 13, 1999, and released January 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2618 Filed 2–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–5, RM–9430]

Radio Broadcasting Services; Velva, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by High Plains Broadcasting, Inc. to allot Channel 235C1 to Velva, ND, as the community's first local aural service. Channel 235C1 can be allotted to Velva in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 48–03–18 NL; 100–55–54 WL. Canadian concurrence in the allotment is required since Velva is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 15, 1999, and reply comments on or before March 30, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: F. William LeBeau, Hogan & Hartson, L.L.P., 555 Thirteenth Street, N.W., Washington, D.C. 20004–1109 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–5, adopted January 13, 1999, and released January 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2619 Filed 2–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–6, RM–9431]

Radio Broadcasting Services; St. Johnsbury, VT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dana Puopolo to allot Channel 262A to St. Johnsbury, VT, as the community's second local aural service. Channel 262A can be allotted to St. Johnsbury in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.2 kilometers (3.2 miles) east, at coordinates 44–25–50 NL; 71–57–22 WL, to avoid a short-spacing to Station WXXK, Channel 263C3, Lebanon, NH, and to the proposed allotment of Channel 264A to Hardwick, VT, and Channel 265C2 at Berlin, VT. Canadian concurrence in the allotment, as a specially negotiated short-spaced allotment, is required since St.

Johnsbury is located within 320 kilometers of the U.S.-Canadian border, and the allotment will be short-spaced to Channel 262A at Sherbrooke, Quebec.

DATES: Comments must be filed on or before March 15, 1999, and reply comments on or before March 30, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dana Puopolo, 37 Martin Street, Rehoboth, MA 02769–2103 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket 99–6, adopted January 13, 1999, and released January 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2621 Filed 2–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–7, RM–9432]

Radio Broadcasting Services; Delhi, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dana Puopolo to allot Channel 248A to Delhi, NY, as the community's second local aural service. Channel 248A can be allotted to Delhi in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.6 kilometers (3.5 miles) southwest, at coordinates 42–15–23 NL; 74–58–35 WL, to avoid a short-spacing to Station WMYY, Channel 247A, Schoharie, NY. Canadian concurrence in the allotment is required since Delhi is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 15, 1999, and reply comments on or before March 30, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dana Puopolo, 37 Martin Street, Rehoboth, MA 02769–2103 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–7, adopted January 13, 1999, and released January 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2622 Filed 2–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–9, RM–9434]

Radio Broadcasting Services; Lancaster, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dana Puopolo seeking the allotment of Channel 229A to Lancaster, NH, as the community's second local aural service. Channel 229A can be allotted to Lancaster with a site restriction of 10 kilometers (6.2 miles) northwest, at coordinates 44–33–55 NL; 71–37–48, to avoid a short-spacing to Station WMWV, Channel 228A, Conway, NH. Canadian concurrence in the allotment, as a specially negotiated short-spaced allotment with respect to unoccupied and unapplied for Channel 229A at East Angus, Quebec, is required since Lancaster is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 15, 1999, and reply comments on or before March 30, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dana Puopolo, 37 Martin St., Rehoboth, MA 02769–2103 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of

Proposed Rule Making, MM Docket No. 99–9, adopted January 13, 1999, and released January 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2624 Filed 2–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–10, RM–9435]

Radio Broadcasting Services; Walton, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dana Puopolo seeking the allotment of Channel 296A to Walton, NY, as the community's second local FM service. Channel 296A can be allotted to Walton in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.8 kilometers (3.6 miles) south, at coordinates 42–07–05 NL; 75–08–01 WL, to avoid a short-spacing to Station WRCK, Channel 297B, Utica, NY. Canadian concurrence in the allotment is required since Walton is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 15, 1999, and reply comments on or before March 30, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dana Puopolo, 37 Martin St., Rehoboth, MA 02769–2103 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–10, adopted January 13, 1999, and released January 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2625 Filed 2–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–8, RM–9433]

Radio Broadcasting Services; Mt. Washington, NH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Dan Puopolo, to allot Channel 247A to Mt. Washington, NH, as the community's second local aural transmission service. Channel 247A can be allotted to Mt. Washington in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, with respect to all domestic allotments, at coordinates 44–16–13 NL; 78–18–13. Use of these coordinates does not negate the short-spacing to the proposed allotment of Channel 247C1 at Thetford-Mines, Quebec, Canada. Concurrence in the allotment of Channel 247A at Mt. Washington will be requested as a specially negotiated short-spaced allotment since Mt. Washington is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before March 15, 1999, and reply comments on or before March 30, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dana Puopolo, 37 Martin Street, Rehoboth, MA 02769–2103 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–8, adopted January 13, 1999, and released January 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–2623 Filed 2–3–99; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 64, No. 23
Thursday, February 4, 1999

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

Animal and Plant Health Inspection Service

[Docket No. 98–089–2]

Monsanto Co.; Availability of Determination of Nonregulated Status for Canola Genetically Engineered for Glyphosate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the Monsanto Company's canola line designated as RT73, which has been genetically engineered for tolerance to the herbicide glyphosate, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Monsanto Company in its petition for a determination of nonregulated status and an analysis of other scientific data. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: January 27, 1999.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, and the petition 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 those documents are asked to call in advance of visiting at (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Subhash Gupta, Biotechnology and Biological Analysis, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–8761. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–4885; e-mail: Kay.Peterson@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 4, 1998, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 98–216–01p) from Monsanto Company (Monsanto) of St. Louis, MO, seeking a determination that a canola (*Brassica napus* L.) line designated as Roundup Ready® canola line RT73 (canola line RT73), which has been genetically engineered for tolerance to the herbicide glyphosate, does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On October 16, 1998, APHIS published a notice in the **Federal Register** (63 FR 55573–55574, Docket No. 98–089–1) announcing that the Monsanto petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject canola and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether this canola line posed a plant pest risk. The comments were to have been received by APHIS on or before December 15, 1998. APHIS received no comments on the subject petition during the designated 60-day comment period.

Analysis

Canola line RT73 has been genetically engineered to contain a CP4 EPSPS gene derived from *Agrobacterium* sp. strain CP4, and a modified *goxv247* gene derived from *Ochrobactrum anthropi* strain LBAA. The CP4 EPSPS gene encodes a 5-enolpyruvyl-shikimate-3-phosphate synthase (CP4 EPSPS) protein, and the *goxv247* gene encodes a glyphosate oxidoreductase (GOXv247) protein. The CP4 EPSPS and GOXv247 proteins confer tolerance to the herbicide glyphosate. Expression of the added genes is controlled in part by gene sequences derived from the plant pathogen figwort mosaic virus, and the *Agrobacterium tumefaciens* method was used to transfer the added genes into the parental canola Westar variety plants.

The subject canola has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains gene sequences derived from plant pathogens. However, evaluation of field data reports from field tests of this canola conducted under APHIS permits and notifications since 1995 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of canola line RT73.

Determination

Based on its analysis of the data submitted by Monsanto, and a review of other scientific data and field tests of the subject canola, APHIS has determined that canola line RT73: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than canola developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not cause damage to raw or processed agricultural commodities; and (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture. Therefore, APHIS has concluded that the subject canola and any progeny derived from hybrid crosses with other nontransformed canola varieties will be as safe to grow as canola in traditional breeding programs that are not subject to regulation under 7 CFR part 340.

The effect of this determination is that Monsanto's canola line RT73 is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the subject canola or its progeny. However, importation of canola line RT73 or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C.

4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that Monsanto's canola line RT73 and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 29th day of January 1999.

Thomas E. Walton,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–2656 Filed 2–3–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 99–003N]

Notice of Public Meeting on Listeria Monocytogenes

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) is holding a public meeting on *Listeria monocytogenes.* Current industry and government procedures will be discussed such as sampling programs, monitoring programs, and recall procedures. FSIS anticipates using the information gathered at this meeting as a vehicle for developing a short- and long-term strategy for research, regulation, education, and enforcement regarding *Listeria monocytogenes.*

DATES: The meeting will be held February 10, 1999, from 9:00 a.m. to 5:00 p.m. Written comments must be received by March 8, 1999.

ADDRESSES: The meeting will be held at the Arlington Hilton—Ballston, 950 N. Stafford Street, Arlington, VA 22203, telephone number is 703–528–6000. To register for the meeting and to schedule a presentation, contact Jennifer Callahan by telephone at (202) 501–7136 or by FAX at (202) 501–7642. If a sign language interpreter or other special accommodation is necessary, contact Jennifer Callahan at the above number.

Submit one original and two copies of written comments to: FSIS Docket Clerk, Docket #99–003N, Room 102 Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. All comments received in response to this notice will be considered part of the public record and will be available for viewing in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Judith Riggins, Associate Deputy Administrator, Office of Policy, Program Development and Evaluation by telephone at (202) 720–2709 or by Fax at (202) 720–2025.

SUPPLEMENTARY INFORMATION: USDA believes the current nationwide listeriosis outbreaks associated with meat and poultry products, as unfortunate as they are, present an opportunity to strengthen control efforts from farm to table and to reduce the risk of human illness. In addition to coordinating with the Center for Disease Control (CDC) and the states to trace the chain of events that led to illness, FSIS is reviewing regulatory, enforcement, and educational strategies for reducing the number of foodborne illnesses associated with *Listeria monocytogenes.* FSIS is reexamining its consumer education materials, particularly those for ''at risk'' audiences, as well as its strategy for distributing these materials. FSIS will coordinate education and information activities with CDC and the Food and Drug Administration by means of the Partnership for Food Safety.

In light of these concerns and initiatives, FSIS will hold a public meeting on February 10, 1999. The following issues are to be discussed at the meeting:

- Protocols for sampling ready-to-eat product, recall procedures established by industry and FSIS, and the status of the FSIS sampling programs for ready-to-eat products;
- The public health implications of *Listeria monocytogenes;*
- The use of sell-by and pull-by dates on meat and poultry labels, how they are determined, and whether the factors considered in determining them adequately reflect the possibility of *Listeria monocytogenes* grow out;
- Steps industry may take to address this pathogen; and
- Education initiatives, including special materials for ''at risk'' audiences, FSIS and industry information dissemination procedures, consumer discussion about understanding of sell-by and pull-by dates on labels, and briefings on FoodNet, PulseNet, and DNA ''fingerprinting.''

Done at Washington, DC, on February 1, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–2644 Filed 2–1–99; 1:34 pm]

BILLING CODE 3410–DM–M

AMERICAN BATTLE MONUMENTS COMMISSION

Performance Review Board Appointments

AGENCY: American Battle Monuments Commission.

ACTION: Notice of performance review board appointments.

SUMMARY: This notice provides the names of individuals who have been appointed to serve as members of the American Battle Monuments Commission Performance Review Board. The publication of these appointments is required by Section 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95–454, 5 U.S.C. 4314(c)(4).

DATES: These appointments are effective as of 1 February 1999.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Theodore Gloukhoff, Director of Personnel and Administration, American Battle Monuments Commission, Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, Virginia 22201, Telephone Number: (703) 696–6908.

American Battle Monuments Commission SES Performance Review Board—1999/2000

Donald Leverenz, Assistant Director, Research and Development, U.S. Army Corps of Engineers

John P. D'Aniello, P.E., Deputy Director of Civil Works, U.S. Army Corps of Engineers

William A. Brown, Sr., Deputy Director of Military Programs, U.S. Army Corps of Engineers

Theodore Gloukhoff,

Director, Personnel and Administration.

[FR Doc. 99–2653 Filed 2–3–99; 8:45 am]

BILLING CODE 6120–01–U

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, February 12, 1999, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, N.W., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of January 22, 1999 Meeting
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee's Follow-up to the Report ''Police-Community Relations in Reno, Nevada'' (May 1992)
VI. Future Agenda Items
10:15 a.m. Briefing on the 2000 Census Debate

CONTACT PERSON FOR FURTHER INFORMATION: David Aronson, Press and Communications (202) 376–8312.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 99–2833 Filed 2–2–99; 2:41 pm]

BILLING CODE 6335–0–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

AGENCY: Bureau of the Census.

Title: Census 2000—Island Areas.

Form Number(s): Forms: D–1(F) PI, D–1(F) VI, D–2(E) AS, D–2(E) CNMI, D–2(E) G, D–2(E) VI, D–2(E) SUPP AS, D–2(E) SUPP CNMI, D–2(E) SUPP G, D–2(E) SUPP VI, D–10 AS, D–10 CNMI, D–10 G, D–10 VI, D–13 AS, D–13 CNMI, D–13 G, D–13 VI, D–20B PI, D–20B VI, D–21 PI, D–806 IA

Letters and Envelopes: D–5(L) AS, D–5(L) CNMI, D–5(L) G, D–5(L) VI, D–5 PI, D–5 VI, D–7 AS, D–7 CNMI, D–7 G, D–7 VI, D–12 AS, D–12 CNMI, D–12 G, D–12A VI, D–12B VI, D–13(L) AS, D–13 (L) CNMI, D–13(L) G, D–13 (L) VI, D–14 AS, D–14 CNMI, D–14 G, D–14A VI, D–14B VI, D–26 PI, D–26 VI, D–31 PI, D–31 VI, D–40 PI, D–40 VI.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 72,621 hours in Fiscal Year 2000.

Number of Respondents: 114,000.

Avg Hours Per Response: Interview—47 minutes; Reinterview—6 minutes.

Needs and Uses: The United States Constitution mandates that a census of the Nation's population and housing be taken every 10 years. Title 13 of the United States Code specifies that in addition to the 50 states and the District of Columbia, the census should include Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. These areas, with the exception of Puerto Rico, are collectively referred to as the Island Areas. This OMB submission covers the Island Areas only. The forms for Puerto Rico have been submitted separately. The Census Bureau's goal in Census 2000 is to take the most accurate and cost-effective census possible. The importance of an accurate decennial census cannot be overstated. Island Areas census data will be used by Federal agencies to fulfill many statutory data requirements and by the Island Areas to administer governmental programs.

Two questionnaires will be used in the Island Areas enumeration—one for the U.S. Virgin Islands, and one for the remaining Island Areas. The content of the questionnaires was developed in consultation with the Interagency Committees of the various Island Areas. Many of the questions are the same as those on the stateside questionnaires; others have been modified as recommended by the Island Areas Interagency Committees to reflect the unique social, economic, and climatic characteristics of these areas. The U.S. Virgin Islands questionnaire is more similar to the stateside forms. Only long form questionnaires will be administered in the Island Areas. A short reinterview will be administered to a small sample of respondents to assure data quality.

Affected Public: Individuals or households.

Frequency: One-time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 141 and 191.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: January 29, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–2575 Filed 2–3–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

India and Pakistan Sanctions

ACTION: Proposed collection; Comment request.

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

DATES: Written comments must be submitted on or before April 5, 1999.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Dawnielle Battle, Department of Commerce, 14th and Constitution Avenue, NW, Room 6881, Washington, DC 20230.

SUPPLEMENTARY INFORMATION

I. Abstract

The Bureau of Export Administration (BXA) has taken a number of sanction measures against India and Pakistan consistent with President Clinton's directive. BXA revised the Export Administration Regulations to implement sanctions by setting forth a licensing policy of denial for exports and reexports of items controlled for nuclear nonproliferation and missile technology reasons to these countries, with limited exceptions for the preservation of safety of civil aircraft. Information needs to be provided through the license application form to support such shipments.

II. Method of Collection

Submitted, as required, on form BXA 748-P.

III. Data

OMB Number: 0694–0111.

Form Number: BXA 748P.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 57.

Estimated Time Per Response: 40 to 45 minutes per response.

Estimated Total Annual Burden Hours: 52 hours.

Estimated Total Annual Cost: $0 (no capital expenditures).

IV. Request for Comments

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

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

Dated: January 29, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–2576 Filed 2–3–99; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–098]

Final Result of Expedited Sunset Review: Anhydrous Sodium Metasilicate From France

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

ACTION: Notice of final result of expedited sunset review: Anhydrous sodium metasilicate from France.

SUMMARY: On October 1, 1998, the Department of Commerce (''the Department'') initiated sunset review of the antidumping duty order on anhydrous sodium metasilicate from France (63 FR 52683) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the bases of the notice of intent to participate and substantive comments filed on behalf of the domestic industry, and inadequate responses (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: February 4, 1999.

Statute and Regulations: This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope: The merchandise subject to this antidumping duty order is anhydrous sodium metasilicate (''ASM''), a crystallized silicate (Na2 SiO3) which is alkaline and readily soluble in water. Applications include waste paper de-inking, ore-flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations. The Department determined that ASM mixed with caustic soda beads or with sodium tripolyphosphate is within the scope of the order.[1] This merchandise is currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers 2839.11.00 and 2839.19.00. The HTSUS item numbers are provided for convenience and customs purposes only. They are not determinative of the products subject to the order. The written description remains dispositive.

This review covers all manufacturers and exporters of ASM from France.

Background: On October 1, 1998, the Department initiated a sunset review of the antidumping duty order on ASM from France (63 FR 52683), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of PQ Corporation (''PQ'') within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* PQ claimed interested-party status under section 771(9)(C) of the Act, section 19 U.S.C. 1677(9)(E), as a manufacturer, producer, or wholesaler in the United States of a domestic like product. On October 29, 1998, PQ Corporation requested an extension of time for submission of its substantive response to the notice of initiation and was granted an extension until November 3, 1998 (*see* October 30, 1998, letter from Acting Director, Office of Policy). On October 30, 1998, we received a Notice of Intent to Participate on behalf of Occidental Chemical Corporation (''Occidental''), which claimed interested party status under section 771(9)(C) of the Act, 19 U.S.C. 1677(9)(E), as a manufacturer, producer, or wholesaler in the United States of a domestic like product. We received a complete substantive response from PQ on November 3, 1998, within the extended deadline. PQ's substantive response contained a letter of support from Occidental. We did not receive a substantive response from any respondent interested party to this sunset proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and our regulations (19 CFR 351.218(e)(1)(ii)(C)(2)), we determined to conduct an expedited review.

Determination: In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of margin are discussed below. In addition, parties' comments with respect to continuation or recurrence of dumping and the magnitude of margin are

[1] *See Anhydrous Sodium Metasilicate From France; Final Results of Administrative Review of Antidumping Duty Order,* 47 FR 15620 (April 12, 1982).

addressed within the respective sections below.

Continuation or Recurrence of Dumping: Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc., No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3. of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3. of the *Sunset Policy Bulletin*).

On January 7, 1981, an antidumping duty order on ASM from France was published in the **Federal Register** (46 FR 1667). Since that time, the Department has conducted a number of administrative reviews on this order.[2] The order remains in effect for all imports of the subject merchandise from France.

In its substantive response, PQ stated that following the imposition of the antidumping duty, Rhone Poulenc/Rhodia ceased exporting ASM from France. PQ noted that Rhone Poulenc/Rhodia kept its sales network in place as well as much of its distribution network and entered into an agreement with a U.S. producer to distribute U.S.-manufactured ASM to fill out its product line. PQ stated that Rhone Poulenc/Rhodia has excess ASM production capacity. PQ argued, therefore, that absent the existence of the order, Rhodia will resume exporting ASM from France. PQ asserted that because demand for ASM has been decreasing over time and there is excess production capacity in the United States as well as Europe, any market shift would most likely be due to a lower price offered by the seller of the imported product. PQ further asserted that, because of the low value-to-weight ratio, and because of the high cost of freight for ASM, all things being equal, no French producer could compete in the U.S. market without sales at less than fair value.

As noted above, the Department has conducted several administrative reviews of this order covering the only known exporter Rhone-Poulenc. In the administrative reviews of the periods spanning November 1, 1980 through December 31, 1981, January 1, 1986 through December 31, 1988, and January 1, 1990 through December 31, 1990, the Department found no shipments of ASM from France.[3] Further, because Rhone-Poulenc did not respond to questionnaires in the administrative reviews of the periods spanning January 1, 1991 through December 31, 1995, the Department has no information from the reviews with respect to whether there were any imports of ASM from France.[4] Finally, the Department terminated the administrative reviews of the periods spanning January 1, 1996 through December 31, 1997, based on the absence of entries.[5]

We find, therefore, that the cessation of imports after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. Furthermore, deposit rates above de minimis levels continue to be in effect for all shipments of the subject merchandise from France. As discussed in section II.A.3. of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if imports cease after the order is issued, we may reasonably assume that exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping. Therefore, absent argument and evidence to the contrary, given that shipments of the subject merchandise ceased after the issuance of the order, and that dumping margins continue to exist, the Department, consistent with Section II.A.3 of the *Sunset Policy Bulletin,* determines that dumping is likely to continue or recur if the antidumping duty order were revoked.

Magnitude of the Margin: In the *Sunset Policy Bulletin,* the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See*

[2] *See Anhydrous Sodium Metasilicate From France; Final Results of Administrative Review of Antidumping Duty Order,* 47 FR 15620 (April 2, 1982); *Anhydrous Sodium Metasilicate From France; Final Results of Administrative Review of Antidumping Duty Order,* 47 FR 44594 (October 8, 1982); *Anhydrous Sodium Metasilicate From France; Final Results of Administrative Review of Antidumping Duty Order,* 49 FR 43733 (October 31, 1984); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 53 FR 4195 (February 12, 1988); *Final Results of Antidumping Duty Administrative Review; Anhydrous Sodium Metasilicate From France,* 52 FR 33856 (September 8, 1987); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 53 FR 9785 (March 25, 1988); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 53 FR 43251 (October 26, 1988); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 54 FR 50788 (December 11, 1989); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 56 FR 42979 (August 30, 1991); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 57 FR 49684 (November 3, 1992); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 58 FR 51615 (October 4, 1993); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 60 FR 8631 (February 15, 1995); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 61 FR 30852 (June 18, 1996); and *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 61 FR 44038 (August 27, 1996).

[3] *See Anhydrous Sodium Metasilicate From France; Final Results of Administrative Review of Antidumping Duty Order,* 47 FR 15620 (April 12, 1982); *Anhydrous Sodium Metasilicate From France; Final Results of Administrative Review of Antidumping Duty Order,* 47 FR 44594 (October 8, 1982); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 53 FR 9785 (March 25, 1988); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 53 FR 43251 (October 26, 1988); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 54 FR 50788 (December 11, 1989); and *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 56 FR 42979 (August 30, 1991).

[4] *See Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 57 FR 49684 (November 3, 1992); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 58 FR 51615 (October 4, 1993); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 60 FR 8631 (February 15, 1995); *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 61 FR 30852 (June 18, 1996); and *Anhydrous Sodium Metasilicate From France; Final Results of Antidumping Duty Administrative Review,* 61 FR 44038 (August 27, 1996).

[5] *See Anhydrous Sodium Metasilicate From France; Notice of Termination of Antidumping Duty Administrative Review,* 62 FR 43701 (August 15, 1997); and *Anhydrous Sodium Metasilicate From France; Notice of Recission of Antidumping Duty Administrative Review,* 63 FR 31179 (June 10, 1998).

section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

In the Department's final determination of sales at less than fair value on ASM from France, the Department established an antidumping margin of 60.00 percent (*see Anhydrous Sodium Metasillicate From France—Final Determination of Sales at Less Than Fair Value*, 45 FR 77498 (November 24, 1980) and *Anhydrous Sodium Metasillicate From France; Antidumping Duty Order*, 46 FR 1667 (January 7, 1981)).

In its substantive response, PQ asserted that because of the high cost of freight for ASM, no French producer could compete in the U.S. market without having sales at less than fair value. Although PQ did not specify the magnitude of the margin likely to prevail if the order were revoked, it submitted information for ''computations of export price or constructed export price and normal value, based on realistic assumption.'' (*See* Substantive Response of PQ, November 2, 1998, at 2 and attachment.)

The SAA at 891, House Report at 64, and section 351.218(e)(2)(i) of the *Sunset Regulations* provide that, only in the context of a full sunset review and only under the most extraordinary circumstances will the Department rely on a countervailing duty rate or dumping margin other than those it calculated and published in its prior determinations. The Department, on the basis of inadequate responses (in this case, no response), determined to conduct an expedited review of this duty order. Only in full reviews will the Department consider the calculation of new margins. Further, even if the Department had determined to conduct a full review of this order, it is not persuaded by the evidence presented by PQ that such extraordinary circumstances exist in this case as to warrant the calculation of a new dumping margin.

Therefore, consistent with the *Sunset Policy Bulletin*, we determine that the original margin we calculated, which reflects the behavior of exporters without the discipline of the order, is probative of the behavior of the French producers and exporters of ASM. The Department will report to the Commission the company-specific and ''all others'' rate at the levels indicated in the Final Results of Review section of this notice.

Final Results of Review: As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated below.

Manufacturers/exporters	Margin (percent)
Rhone-Poulenc	60.00
All Others	60.00

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 29, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–2676 Filed 2–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–007]

Final Results of Expedited Sunset Review: Barium Chloride From the People's Republic of China (PRC)

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

ACTION: Notice of final results of expedited sunset review: Barium Chloride from the People's Republic of China (PRC).

SUMMARY: On October 1, 1998, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on barium chloride from China (PRC) (63 FR 52683) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and a complete substantive response filed on behalf of the domestic industry, and inadequate response (in this case no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section to this notice.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, D.C. 20230; telephone (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: February 4, 1999.

Statute and Regulations: This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63* FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope: The merchandise covered by this order is barium chloride, a chemical compound having the formula $BaCl_2$ or $BaCl_2$ $2H_2O$, currently classifiable under item 2827.38.00 of the Harmonized Tariff Schedules (HTS). The HTS item number is provided for convenience and for Customs purposes. The written descriptions remain dispositive.

This review covers all manufacturers and exporters of barium chloride from China.

Background: On October 1, 1998, the Department initiated a sunset review of the antidumping order on barium chloride from China (63 FR 52683) pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate from Chemical Products Corporation (''CPC'') on October 15, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. CPC claimed interested party status under section 771(9)(C) of the Act, as a United States producer of barium chloride. In its substantive response, CPC stated that it was the petitioner in the original antidumping investigation that led to the issuance of the antidumping duty order on barium chloride from China.

Further, CPC stated that it has participated in all of the administrative reviews that have been conducted by the Department on barium chloride from China. On October 28, 1998, the Department received a substantive response from CPC, within the 30-day deadline specified in *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act, and our regulations (19 C.F.R. § 351.218(e)(1)(ii)(C)(2)), we determined to conduct an expedited review.

Determination: In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping finding, and it shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the finding is revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of the margin are discussed below. In addition, parties' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping: Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3. of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3. of the *Sunset Policy Bulletin*).

The antidumping duty order on barium chloride from China was issued on October 17,1984.[1] Since that time, the Department has conducted several administrative reviews.[2] The antidumping duty order remains in effect for all imports of barium chloride from China.

In its substantive response, CPC argued that revocation of the antidumping duty order would result in the resumption of export shipments of barium chloride from China on a large scale and at prices well below fair value. CPC based its conclusion on a number of factors, including historical experience, Chinese productive capacity, the Asian economic crisis, and Chinese export policy. CPC argued that the Department should determine that dumping will continue or resume on the basis that dumping continued at levels above de minimis while the order has been in effect and imports of the subject merchandise ceased after the issuance of the order.

With respect to continuation of dumping after the issuance of the order, CPC referred to the final results of administrative reviews issued by the Department[3] and stated that historical experience clearly demonstrates that the subject merchandise has been dumped at margins greater than de minimis since the issuance of the order. CPC stated that the 60.84 percent duty deposit margin currently in effect for Sinochem (the Chinese manufacturer/exporter reviewed) was first imposed in the final results of administrative review issued on January 3, 1989.[4] CPC suggested that, as a result of the 60.84 percent deposit rate, there was a significant decrease in exports and ultimately a cessation of exports. CPC noted that for the October 1, 1990 through September 30, 1991, review period, the Department found that there were no shipments. CPC supports its assertion that the order resulted in the decrease, and ultimate cessation, of exports of barium chloride from China with reference to import statistics.[5] CPC asserts that the Department's issuance of preliminary and final determinations of sales at less than fair value in April and August of 1984, resulted in the decrease of imports from China from 5.3 million pounds in 1983 to 3.2 million pounds in 1984. CPC also noted that with the 1989 issuance on a 60.84 percent duty deposit rate, imports decreased from 1.5 million pounds in 1988 to 0.2 million pounds in 1989, and ultimately to zero by 1991.

CPC acknowledged that imports reappeared in 1994, but at levels significantly below pre-order levels. CPC argued, therefore, that the continuation of dumping combined with the cessation of exports demonstrates that Chinese barium chloride cannot be sold in the U.S. market except through dumping. CPC also asserted that, in addition to the original three Chinese factories producing barium chloride (as identified in the ITC's report), it had obtained information that an additional seven factories (with capacity of 73,400 MT/annum) produce barium chloride in China. Noting that barium chloride is a commodity chemical product with a number of industrial uses and applications, CPC argued that as economic and industrial activity slows in China's traditional Asian markets, the demand for barium chloride will decrease and Chinese exports will decline. Therefore, asserts CPC, without an antidumping order in place, the Chinese producers of barium chloride can be expected to turn their attention to the U.S. market for their excess production. Finally, CPC argues that, as supported by statements of U.S. government officials, China has an aggressive export policy in place that, with the revocation of the order, could be expected to result in the resumption of large-scale shipments to the United States.

In conclusion, CPC stated that for each of the above discussed reasons, without an order in place, dumping from China would likely overwhelm CPC and eliminate the lone remaining U.S. producer of barium chloride.

As discussed in Section II.A.3. of the *Sunset Policy Bulletin*, the SAA at 890,

[1] *See Barium Chloride from the People's Republic of China, Antidumping Duty Order,* 49 FR 40635 (October 17, 1984).

[2] *See Barium Chloride from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 52 FR 313 (January 5, 1987); *Barium Chloride form the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 54 FR 52 (January 3, 1989); and *Barium Chloride from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 57 FR 29467 (July 2, 1992).

[3] *Id.*

[4] The review covered the period October 1, 1985 through September 30, 1986, and set the duty deposit rates for entries on or after the publication date of the notice.

[5] CPC provided data collected from the U.S. Census Bureau and published on Form IM 145 (from 1980 through 1988 the data were reported under TSUS 417.70.00 and for 1989 through 1997 under HTSUS 287.38.0000).

and the House Report at 63–64, ''Existence of dumping margins after the order, or the cessation of imports after the order, is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed. If imports cease after the order is issued, it is reasonable to assume that the exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping.'' Deposit rates above *de minimis* continue in effect for exports of barium chloride from China. Additionally, exports of barium chloride from China ceased between 1991 and 1993, and although since resumed, have never reached higher than six percent of their pre-order level. Therefore, given that dumping above *de minimis* has continued over the life of the order and imports ceased at least temporarily, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the order were revoked.

Magnitude of the Margin: In the *Sunset Policy Bulletin,* the Department stated that, consistent with the SAA and House Report, the Department will provide to the Commission the company-specific margins from the investigation for each company because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. For companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all others rate from the investigation. *See* section II.B.1 of the *Sunset Policy Bulletin.* Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See* sections II.B.2 and 3 of the *Sunset Policy Bulletin.*

In its substantive response, CPC urged the Department to determine that the magnitude of the margin likely to prevail if the order were revoked is 60.84 percent, the margin determined in the final results of the second administrative review and the current duty deposit rate. CPC asserted that the Department has recognized that dumping margins can increase after the issuance of an order and that a more current and higher margin, even if based on the best information available, may well be a more appropriate indicator of the magnitude of the margin likely to prevail if the order were revoked. CPC argued that the dumping margin and cash deposit rate for barium chloride from China increased significantly after the issuance of the antidumping duty order—from 14.5 percent to 60.84 percent. CPC stated that the 14.5 percent rate from the original investigation was never actually used as the basis of assessing duties, as it was replaced by a rate of 7.82 percent in the first administrative review. Given that the margin of 60.84 percent has applied to all imports since October 1, 1986, CPC argues that this is the only appropriate and realistic measure of the magnitude of dumping.

In the *Sunset Policy Bulletin*, the Department stated that ''a company may choose to increase dumping in order to maintain or increase market share'' and that ''the Department may, in response to argument from an interested party, provide the Commission a more recently calculated margin for a particular company, where for that particular company, dumping margins increased after the issuance of the order.'' (*See* section II.B.2 of the *Sunset Policy Bulletin.*) As detailed in *Final Results of Expedited Sunset Review: Stainless Steel Plate From Sweden* (63 FR 67658, December 8, 1998) the Department's intent was to establish a policy of using the original investigation margin as a starting point, thus providing interested parties the opportunity and incentive to come forward with data which would support a different estimate. In this case, CPC merely argued that the margin from the original determination was never actually used to assess duties and that, by the second review, the margin had increased to a level where it remains today. The import statistics provided by CPC demonstrate that, after steadily increasing from 1980 to 1983, imports of barium chloride from China began decreasing with the issuance of the preliminary and final determinations of sales at less than fair value. We note that the margin from the original investigation served as the duty deposit rate until January 1987, when the final results of the first administrative review were issued. Further, the final results (the 60.84 percent) of the administrative review covering imports from October 1985 through September 1986, were issued in January 1989, five years after the issuance of the order and, at a time when imports had already decreased to less than 30 percent of the pre-investigation level of imports. Although the statistics provided by CPC demonstrate a slight increase in the volume of imports between 1984 and 1985, import volumes decreased every year thereafter until 1995. Therefore, because there was no increase in imports of barium chloride from China corresponding to the increase in the dumping margin, we find CPC's argument of choosing the rate from the second administrative review (and current deposit rate) unpersuasive. Therefore, we find no reason to deviate from our *Sunset Policy Bulletin* in this review. We determine that the original margin calculated by the Department, which reflects the behavior of exporters without the discipline of the order, is probative of the behavior of the Chinese producers/exporters of barium chloride. The Department will report to the Commission the company-specific and ''all others'' rate at the levels indicated in the Final Results of the Review section of this notice.

Final Results of Review: As a result of this review, the Department finds that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping at the margins listed below.

Manufacturer/exporter	Margin (percent)
China National Chemicals Import and Export Corporation (SINO–CHEM)	14.50
All Others	14.50

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752(i)(1) of the Act.

Dated: January 29, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–2673 Filed 2–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–001]

Final Results of Expedited Sunset Review: Sorbitol From France

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

ACTION: Notice of final results of expedited sunset review: Sorbitol from France.

SUMMARY: On October 1, 1998, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on sorbitol from France (63 FR 52683) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and a complete substantive response filed on behalf of the domestic industry, and inadequate response (in this case no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the *Final Results of Review* section to this notice.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, D.C. 20230; telephone (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: February 4, 1999.

Statute and Regulations: This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope: The merchandise covered by this order is crystalline sorbitol, a polyol produced by the hydrogenation of sugars (glucose), used in the production of sugarless gum, candy, groceries, and pharmaceuticals, currently classifiable under Harmonized Tariff Schedule (''HTS'') item number 2905.44.00. The HTS item number is provided for convenience and for Customs purposes. The written description remain dispositive.

This review covers all manufacturers and exporters of sorbitol from France.

Background: On October 1, 1998, the Department initiated a sunset review of the antidumping order on sorbitol from France (63 FR 52683) pursuant to section 751(c) of the Act. On October 6, 1998, we received a Notice of Intent to Participate from SPI Polyols, Inc. (''SPI''). On October 16, 1998, we received a Notice of Intent to Participate from Archer Daniels Midland Company (''ADM'') and Roquette America (''RA''). Each of these notices were received within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* ADM and SPI claimed interested party status under section 771(9)(C) of the Act, as domestic producers of sorbitol. RA claimed interested party status as a domestic producer and as an importer of the subject merchandise. The Department received substantive responses on behalf of each of the three parties within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act, and our regulations (19 C.F.R. § 351.218(e)(1)(ii)(C)(2)), we determined to conduct an expedited review.

Determination: In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c)(1) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order. Pursuant to section 752(c)(3) of the Act, the Department shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of the margin are discussed below. In addition, parties' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping: Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (see section II.A.3. of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3. of the *Sunset Policy Bulletin*).

The Department's antidumping duty order on sorbitol from France was published in the **Federal Register** (47 FR 15391) on April 9, 1982. Since that time the Department has conducted several administrative reviews.[1] The antidumping duty order remains in effect for all imports of sorbitol from France.

In its substantive response, ADM argues that if the order on crystalline sorbitol from France were revoked dumping will continue or resume. ADM supports its conclusion by stating that after the issuance of the order, dumping of sorbitol continued at levels above de minimis, imports ceased and imports declined when they did not cease altogether. With respect to margins above de minimis, ADM notes that in five of the seven administrative reviews

[1] *See Sorbitol from France; Final Determination of Sales at Less Than Fair Value,* 47 FR 6459 (February 12, 1982); *Sorbitol from France; Final Results of Antidumping Duty Administrative Review,* 51 FR 42873 (November 26, 1986); *Sorbitol from France; Final Results of Antidumping Duty Administrative Review,* 52 FR 20444 (June 1, 1987); *Sorbitol from France; Final Results of Antidumping Duty Administrative Review,* 53 FR 21506 (June 8, 1988); *Sorbitol from France; Final Results of Antidumping Duty Administrative Review,* 55 FR 6668 (February 26, 1990).

conducted by the Department since 1982, margins exceeded de minimis, and in one instance, the margin was more than four times that of the original margin.[2] With respect to the cessation of imports, ADM states that Roquette Freres (''RF''), the only known exporter of sorbitol to the U.S., previously acknowledged that its sorbitol exports ceased for at least some period of time after the issuance of the antidumping order. ADM argues that because RF requested revocation in 1988 based on no shipments for several years and no sales that contained margins during the 1987–88 administrative review period, the Department could conclude RF could not ship sorbitol to the U.S. without dumping. Finally ADM argues that aggregated import statistics for HTSUS item no. 2905.44.00, which includes crystalline sorbitol, indicates that the total volume of imports declined, thus providing a basis to infer that RF exported smaller volumes in certain periods compared to the volumes that it shipped before the antidumping petition was originally filed.[3]

In its substantive response SPI asserts that absent the order, RF will resume large volume shipments from its French plant, producing dumping margins in the range of 40 percent. SPI further asserts that in recent years RF sold to U.S. customers exclusively from its U.S. plant. However, RF has been bidding at extra-low prices to obtain additional U.S. business. If successful, the additional business would substantially exceed the capacity at RF's Illinois plant. Thus, SPI asserts, it is obvious that RF plans to serve the additional business from its French plant. Citing to the July 1998 marketing report, ''Sorbitol and Related Polyols—Worldwide Supply, Demand Business Opportunities 1997/8–2005'' in which the price for sorbitol 100% is given as $2.15/kg in the EU and $1.65/kg in the United States, SPI estimates dumping margins of 40 percent.

RA, in its substantive response to the notice of initiation, supported the preservation of the antidumping order. RA claimed that the EU, particularly France, is currently significantly expanding production capacity for crystalline sorbitol. Further, because market demand within the EU is growing very slowly and cannot be expected to consume the capacity increase and because exports are expected to decline drastically because of the Asian crisis, the EU industry will be seeking new export markets, with the United States being the likely target.

As discussed in section II.A.3. of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63–64, ''[E]xistence of dumping margins after the order, or cessation of imports after the order, is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed.'' As ADM noted, dumping margins above de minimis were found to exist in five of the seven administrative reviews conducted by the Department. Further, deposit rates above de minimis continue in effect for exports of sorbitol from France. Therefore, given that dumping margins above de minimis were found to exist and continue in effect, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the order were revoked.

Magnitude of the Margin: In the *Sunset Policy Bulletin*, the Department stated that, consistent with the SAA and House Report, the Department will provide to the Commission the company-specific margins from the investigation for each company because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. For companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all others rate from the investigation. *See* section II.B.1 of the *Sunset Policy Bulletin*. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.

In the Department's final determination of sales at less than fair value of sorbitol from France, the Department established a 2.9 percent dumping margin for RF. The Department has not issued an affirmative duty absorption determination.[4]

ADM states that in compliance with the SAA, the Department should provide the original margin of 2.9 percent to the Commission because 2.9 percent reflects RF's behavior without the discipline of an order in place.[5] ADM further argues that, in this case, it is not appropriate for the Department to select a more recently calculated rate because the dumping margins calculated for the seven reviews conducted by the Department have fluctuated significantly and do not evince a pattern from which the Department could conclude that a more recently calculated rate is likely to prevail in the absence of the order.

RA argues that a dumping margin of more than 20 percent is likely to prevail if the order is revoked because the EU market, including France, is a highly protected market with a tariff structure which prohibits U.S. producers from exporting to the EU. In addition, RA claims that the EU has a system of export refunds to compensate EU producers for the high internal EU prices of grains which are the feedstock for crystalline sorbitol outside the EU.

As discussed above, SPI alleges that the margin of dumping likely to prevail if the order is revoked is 40 percent. SPI bases this allegation on an EU price of $2.15/kg and a U.S. price of $1.65.

As noted in the *Sunset Regulations* and *Sunset Policy Bulletin*, only under the most extraordinary circumstances will the Department rely on a dumping margin other than those it calculated and published in its prior determinations. Further, in antidumping sunset reviews, the Department will consider other factors, such as prices and costs, only where it determines that good cause to consider such other factors exists (*see* section 351.218(e)(2) of the *Sunset Regulations* and section II.C of the *Sunset Policy Bulletin*). Although RA and SPI assert that the dumping margin likely to prevail without the order could be 20 percent or 40 percent, they do not make any ''good cause'' arguments. Neither RA nor SPI offered any rationale suggesting that their estimated margins would not be more speculative and, therefore, less probative than the calculated rate from the original investigation.

The Department finds no reason to deviate from our *Policy Bulletin* in this review. Therefore, we determine that the original margin calculated by the Department which reflects the behavior of exporters without the discipline of the order, is probative of the behavior of the French producers of sorbitol. The Department will report to the Commission the company-specific and ''all others'' rate at the levels indicated in the *Final Results of the Review* section of this notice.

[2] See Substantive Response of ADM (November 2, 1998) at 4.

[3] See Substantive Response of ADM (November 2, 1998) appendix B.

[4] *See Sobitol from France; Final Determination of Sales at Less Than Fair Value*, 47 FR 6549 (February 12, 1982).

Final Results of Review: As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the margins listed below.

Manufacturer/Exporter	Margin (percent)
Roquette Freres	2.90
All Others	2.90

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are published in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: January 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–2675 Filed 2–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–078; A–423–077; A–428–082]

Final Results of Expedited Sunset Review: Sugar From France, Belgium and Germany

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

ACTION: Notice of final results of expedited sunset reviews: Sugar from France, Belgium and Germany.

SUMMARY: On October 1, 1998, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping findings on sugar from France, Belgium and Germany (63 FR 52683) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the bases of the notices of intent to participate and substantive comments filed on behalf of the domestic industry, as well as inadequate responses (in these cases, no responses) from respondent interested parties, the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping findings would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: February 4, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to these antidumping findings is sugar, both raw and refined, with the exception of specialty sugars, from France, Belgium and Germany. The order on sugar from France excludes homeopathic sugar pellets meeting the following criteria: (1) composed of 85 percent sucrose and 15 percent lactose; (2) have a polished, matte appearance, and more uniformly porous than domestic sugar cubes; (3) produced in two sizes of 2 mm and 3.8 mm in diameter.[1]

The merchandise under review is currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 1701.1100, 1701.1101, 1701.1102, 1701.1103, 1701.1105, 1701.1110, 1701.1120, 1701.1150, 1701.1200, 1701.1201, 1701.1202, 1701.1205, 1701.1210, 1701.1250, 1701.9105, 1701.9110, 1701.9120, 1701.9121, 1701.9122, 1701.9130, 1701.9900, 1701.9901, 1701.9902, 1701.9905, 1701.9910, 1701.9950, 1702.9005, 1702.9010, 1702.9020, 1702.9030, 1702.9031, 1702.9032, 2106.9011, 2106.9012, 2106.9042, 2106.9044, and 2106.9046. The HTSUS item numbers are provided for convenience and customs purposes only. They are not determinative of the products subject to the orders. The written description remains dispositive.

These reviews cover all manufacturers and exporters of sugar from France, Belgium and Germany.

Background

On October 1, 1998, the Department initiated sunset reviews of the antidumping findings on sugar from France, Belgium and Germany (63 FR 52683), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate for each of these findings from The United States Beet Sugar Association and The United States Cane Sugar Refiners' Association (''the Associations'') on October 16, 1998, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* The Associations claimed interested party status under section 771(9)(E) of the Act as a trade association whose members produce sugar in the United States. We received a complete substantive response from the Associations on November 2, 1998, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i), for each of these findings. In each of the substantive responses, the Associations claimed interested party status under subsections 771(9)(C) and 771(9)(E) & (G)(i–iii) of the Act. We did not receive a substantive response from any respondent interested party in these sunset proceedings. As a result, pursuant to section 751(c)(3)(B) of the Act and our regulations (19 CFR 351.218(e)(1)(ii)(C)(2)), the Department determined to conduct expedited reviews.

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping findings would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping finding, and shall provide to the International Trade

[1] *See Sugar from France; Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Finding,* 61 FR 40609 (August 5, 1996).

Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the finding is revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of margin are discussed below. In addition, parties' comments with respect to continuation or recurrence of dumping and the magnitude of margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically, the Statement of Administrative Action (''the SAA''), H.R. Doc., No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3. of the *Sunset Policy Bulletin*). Additionally, the Department normally will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3. of the *Sunset Policy Bulletin*).

The antidumping findings on sugar from France, Belgium, and Germany were published in the **Federal Register** as Treasury Decision 79–167 (44 FR 33878, June 13, 1979). Since that time, the Department has conducted a number of administrative reviews on each of these findings but found there were no shipments during the periods of review.[2] The findings remain in effect for all imports of the subject merchandise from France, Belgium and Germany.

In its substantive responses, the Associations argue that the actions (the cessation of exports of sugar to the U.S.) taken by French, Belgian and German producers and exporters of sugar during the life of these findings indicate that ''revocation of the antidumping and countervailing duty orders on sugar would likely lead to the recurrence of dumping and of a countervailable subsidy'' (*see* November 2, 1998, Substantive Responses of the Associations at 2). With respect to whether dumping continued at any level above de minimis after the issuance of these findings, the Associations assert that, as documented in the final results of reviews reached by the Department, dumping levels have remained constant throughout the life of the findings, with margins of 102 percent for French producers and exporters, 103 percent for Belgian producers and exporters and 121 percent for German producers and exporters.

With respect to whether there has been a cessation of imports of the subject merchandise, the Associations stated that, soon after the issuance of the findings, sugar imports from France, Belgium and Germany ceased. The Department confirmed that there were no shipments of subject merchandise from any of the three countries since the late 1970's.[3]

We find that the cessation of imports after the issuance of the findings is highly probative of the likelihood of continuation or recurrence of dumping. Furthermore, deposit rates above de minimis levels continue in effect for all shipments of the subject merchandise from each of the three countries. As discussed in Section II.A.3. of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if imports cease after the order is issued, we may reasonably assume that exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping. Therefore, absent argument and evidence to the contrary, given that shipments of the subject merchandise ceased soon after the issuance of the findings, and that dumping margins continue to exist, the Department, consistent with Section II.A.3 of the *Sunset Policy Bulletin,* determines that dumping is likely to continue or recur if the findings were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin.*) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin.*)

In these cases, Treasury published country-wide weighted-average dumping margins for each of the three findings. The rates established were 102 percent for all exports from France, 103 percent for all exports from Belgium and 121 percent for all exports from Germany (44 FR 8949, February 12, 1979).

In its substantive response, the Associations state that the dumping margins for each of these findings are likely to be at least as high as the first margins calculated at the time of the original investigation. In fact, the Associations project, based on current U.S. and EU pricing (which is uniform in all EU countries), a dumping margin of 263 percent *ad valorem* would prevail if the findings were revoked.[4]

The Department finds that the country-wide weighted-averaged margins calculated in the original investigations are probative of how French, Belgian and German producers and exporters of sugar would act if the findings were revoked. However, with respect to the projected dumping

[2] *See Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding,* 46 FR 22778 (April 21, 1981); *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding,* 47 FR 3399 (January 25, 1982); *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding,* 48 FR 1786 (January 14, 1983); and *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding,* 49 FR 43738 (October 31, 1984).

[3] *See Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding,* 46 FR 22778 (April 21, 1981); *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding,* 47 FR 3399 (January 25, 1982); *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding,* 48 FR 1786 (January 14, 1983); and *Sugar from France, Belgium and the Federal Republic of Germany; Final Results of Administrative Review of Antidumping Finding,* 49 FR 43738 (October 31, 1984) in which the Department found no shipments by any of the companies reviewed.

[4] The Associations also project, on a constructed value basis, a dumping margin of 153.73 percent from France, 152.07 percent from Belgium and 220.54 percent from Germany. *See* November 2, 1998, Substantive Responses of the Associations, at 21 and 22.

margins calculated by the Associations, we note that the SAA at 890–891 provides that, only in the most extraordinary circumstances, will the Department rely on dumping margins other than those it calculated and published in its prior determinations. The *Sunset Regulations* at 19 CFR 351.218(e)(2)(i) explain that ''extraordinary circumstances'' may be considered by the Department in the context of a full sunset review, where the substantive responses from both domestic and respondent interested parties are adequate. In these cases, however, the Department determined to conduct expedited sunset reviews because the respondents did not submit any substantive responses to the notice of initiation. Thus, in light of the inadequate responses, the Department will not consider whether, in these sunset reviews, it should rely on margins other than the rates from the original investigations.

Therefore, consistent with the *Sunset Policy Bulletin,* we determine that the original margins calculated by Treasury are probative of the behavior of the French, Belgian and German producers and exporters of sugar if the findings were revoked. We will report to the Commission the country-wide margins contained in the *Final Results of Review* section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping findings would be likely to lead to continuation or recurrence of dumping at the levels indicated below:

Manufacturers/exporters	Margin (percent)
All French Manufacturers/Exporters	102
All Belgian Manufacturers/Exporters	103
All German Manufacturers/Exporters	121

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 29, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–2672 Filed 2–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012099A]

Endangered Species; Permits

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

ACTION: Receipt of applications for modifications to scientific research permits (1115, 1116, 1119); Issuance of amendments to incidental take permits (899, 901, 902, 903).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement: NMFS has received applications for modifications to existing permits from: Public Utility District No. 1 of Chelan County, Wenatchee, WA (PUD-CC)(1115), Public Utility District No. 1 of Douglas County, East Wenatchee, WA (PUD-DC)(1116), and U.S. Fish and Wildlife Service, Leavenworth, WA (FWS)(1119); and NMFS has issued amendments to incidental take permits to: Oregon Department of Fish and Wildlife at Portland, OR (ODFW)(899), Washington Department of Fish and Wildlife at Olympia, WA (WDFW) (901, 902), and Idaho Department of Fish and Game at Boise, ID (IDFG)(903).

DATES: Written comments or requests for a public hearing on any of the applications must be received on or before March 8, 1999.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: For permits 899, 901, 902, and 903: Robert Koch, Portland, OR (503–230–5424).

For permits 1115, 1116, and 1119: Tom Lichatowich, Portland, OR (503–230–5438)

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the ESA, is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Permits and modifications are issued in accordance with and are subject to parts 217–222 of Title 50 CFR, the NMFS regulations governing listed species permits.

Species Covered in this Notice

The following species and populations are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Upper Columbia River (UCR) spring, Snake River (SnR) spring/summer, SnR fall.

Steelhead trout (*Oncorhynchus mykiss*): UCR

To date, a listing determination for UCR spring chinook salmon under the ESA has not been promulgated by NMFS. This notice of receipt of applications requesting takes of this species is issued as a precaution in the event that NMFS issues a listing determination. The initiation of a 30-day public comment period on the applications, including their proposed takes of UCR spring chinook salmon, does not presuppose a listing determination.

Modification Requests Received

PUD-CC requests modification 2 to permit 1115. Permit 1115 authorizes PUD CC to take adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with fish passage studies in the UCR Basin. For Modification 2, PUD-CC requests takes of adult and juvenile UCR spring chinook salmon in anticipation of a possible listing decision of this species by NMFS. PUD-CC also requests authorization for takes of ESA-listed juvenile salmonids associated with three new proposed studies, Studies 4, 5 and 6. In Study 4, PUD CC proposes to use new acoustic tagging technology to monitor the behavior of juvenile salmonids as they migrate through passage facilities at Rocky Reach Dam. Juvenile salmonids are proposed to be anesthetized, tagged, allowed to recover, released above the dam and tracked downstream. In Study 5, PUD CC proposes to use passive integrated transponders (PIT) and radio tagging technology to study the survival of juvenile, endangered, artificially

propagated, UCR steelhead at Rocky Reach and Rock Island Dams. ESA-listed juvenile steelhead are proposed to be anesthetized, tagged, allowed to recover, released above the dams and tracked downstream. Results from Study 4 and 5 will be used to improve the operation of fish passage facilities and evaluate the relative benefits of PIT and radio tagging technologies. For Study 6, PUD CC proposes to: (1) determine the types and numbers of adult salmonids that may be present in the Lake Chelan bypass reach after spill at the Lake Chelan hydroelectric project is curtailed, and (2) identify a mitigation strategy to protect anadromous and resident fish that may become stranded in the bypass reach after spill is curtailed. Adult salmonids are proposed to be observed during snorkel surveys. If any adult salmonids are observed in the bypass reach, the fish are proposed to be captured, handled to obtain scientific information, and released. An associated increase in ESA-listed juvenile fish indirect mortalities are also requested. Modification 2 is requested to be valid for the duration of the permit. Permit 1115 expires on December 31, 2002.

PUD-DC requests modification 2 to scientific research permit 1116. Permit 1116 authorizes PUD-DC to take adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with fish passage studies. For modification 2, PUD DC requests authorization for takes of ESA-listed juvenile steelhead associated with two new research studies, Studies 4 and 5. In Study 4, PUD DC proposes to use PIT tag technology to assess the survival of juvenile, endangered, artificially propagated, UCR steelhead as they pass through Wells Dam. In Study 5, PUD DC proposes to study the survival of juvenile, endangered, artificially propagated, UCR steelhead at Wells Dam and evaluate the relative benefits of PIT and radio tag technology. ESA-listed juvenile steelhead are proposed to be anesthetized, tagged, allowed to recover, released above the dam and tracked electronically. Results from Studies 4 and 5 will be used to improve the operation of fish passage facilities and evaluate fish tagging technology. An associated increase in ESA-listed juvenile fish indirect mortalities are also requested. Modification 2 is requested to be valid for the duration of the permit. Permit 1116 expires on December 31, 2002.

FWS requests modification 1 to permit 1119. Permit 1119 authorizes takes of adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with scientific research studies. For modification 1, FWS requests takes of adult and juvenile UCR spring chinook salmon in anticipation of a possible listing decision of this species by NMFS. Also for modification 1, FWS requests authorization for takes of ESA-listed adult and juvenile salmonids associated with a new study designed to evaluate the feasibility of restoring endangered UCR steelhead and UCR spring chinook salmon above barriers in Icicle Creek, a tributary to the Wenatchee River. FWS proposes to capture adult, endangered, UCR steelhead and UCR spring chinook with drift nets, hook and line, or by collecting them in a fish ladder. The fish are proposed to be anesthetized, tagged with radio transmitters, allowed to recover, placed above the barriers and tracked electronically. Snorkel observations of adult and juvenile salmonids in Icicle Creek are also proposed. If successfully introduced above the barriers, endangered UCR steelhead and UCR spring chinook salmon will benefit by having access to a well managed wilderness watershed having suitable fish rearing habitat. Modification 2 is requested to be valid for the duration of the permit. Permit 1119 expires on December 31, 2002.

Amendments Issued

On December 30, 1998, NMFS issued amendments to ODFW's incidental take permit 899, to WDFW's incidental take permits 901 and 902, and to IDFG's incidental take permit 903. The amendments provide an extension of the duration of the permits through December 31, 1999. The permits were due to expire on December 31, 1998. The permits authorize incidental takes of endangered SnR sockeye salmon and threatened SnR spring/summer and fall chinook salmon associated with the operation of non-listed fish hatchery programs, educational projects, and volunteer salmon enhancement projects within the Columbia River Basin. Extension of the permits will allow ODFW, WDFW, and IDFG to continue hatchery operations in 1999 while NMFS prepares a new biological opinion.

Dated: January 29, 1999.

Kevin Collins,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–2641 Filed 2–3–99; 8:45 am]

BILLING CODE 3510–22–F

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 18 February 1999 at 10:00 AM in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C., 20001. Items of discussion will include designs for projects affecting the appearance of Washington, D.C., including buildings and parks.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, D.C., January 28, 1999.

Charles H. Atherton,

Secretary.

[FR Doc. 99–2654 Filed 2–3–99; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, DoD.

ACTION: Notice of a computer matching program.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended (5 U.S.C. 552a), requires agencies to publish advanced notice of any proposed or revised computer matching program by the matching agency for public comment. The Department of Defense (DoD) as the matching agency under the Privacy Act, is hereby giving notice to the record subjects of a computer matching program between Social Security Administration (SSA) and the DoD that their records are being matched by computer.

The Social Security Act requires SSA to verify, with independent or collateral sources, information provided to SSA by applicants for and recipients of Supplemental Security Income (SSI) payments. The SSI applicant or recipient provides information about eligibility factors and other relevant information. SSA obtains additional information as necessary before making

any determinations of eligibility or payment amounts or adjustments thereto. With respect to military retirement payments to SSI recipients who are retired members of the Uniformed Services or their survivors, SSA proposes to accomplish this task by computer matching with the DOD.

DATES: This proposed action will become effective March 8, 1999, and matching may commence unless changes to the matching program are required due to public comments or by Congressional or by Office of Management and Budget objections. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr. at (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the Defense Manpower Data Center (DMDC) and SSA have concluded an agreement to conduct a computer matching program. The parties to this agreement have determined that a computer matching program is the most efficient, expeditious, and effective means of obtaining and processing the information needed by the SSA.

A copy of the computer matching agreement between SSA and DoD is available upon request. Requests should be submitted to the address caption above or to the Computer Matching Program and Policy Team, Office of Disclosure Policy, Office of Program Support, Office of Disability and Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published on June 19, 1989, at 54 FR 25818.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on January 21, 1999, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 28, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

COMPUTER MATCHING PROGRAM BETWEEN THE SOCIAL SECURITY ADMINISTRATION AND THE DEPARTMENT OF DEFENSE FOR VERIFICATION OF ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME PROGRAM

A. *Participating agencies:* Participants in this computer matching program are the Social Security Administration (SSA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The SSA is the source agency, i.e., the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* The Social Security Act requires SSA to verify, with independent or collateral sources, information provided to SSA by applicants for and recipients of Supplemental Security Income (SSI) payments. The SSI applicant or recipient provides information about eligibility factors and other relevant information. SSA obtains additional information as necessary before making any determinations of eligibility or payment amounts or adjustments thereto. With respect to military retirement payments to SSI recipients who are retired members of the Uniformed Services or their survivors, SSA proposes to accomplish this task by computer matching with the DOD.

C. *Authority for conducting the match:* The legal authority for the matching program is contained in sections 1631(e)(1)(B) and (f) of the Social Security Act (42 U.S.C. 1383(e)(1)(B) and (f)).

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, from which records will be disclosed for the purpose of this computer match are as follows:

1. The SSA will use 09–60–0103, entitled 'Supplemental Security Income Record, HHS/SSA/OSR,' last published on January 6, 1995, at 60 FR 2150.

2. The DMDC will use S322.10 DMDC, entitled 'Defense Manpower Data Center Data Base', last published on September 14, 1998 at 63 FR 49095.

E. *Description of computer matching program:* SSA, as the source agency, will provide DMDC with an electronic query file which contains the name, SSN, and SSI person type. Upon receipt of the query file, DMDC, as the recipient agency, will perform a computer match using all nine digits of the SSN of the SSI file against a DMDC database. The DMDC database consists of extracts of personnel and pay records of retired members of the uniformed services or their survivors.

DMDC will furnish the matched data ('hits') to SSA in an electronic reply file. SSA is responsible for verifying and determining that the data in the DMDC reply file are consistent with the data in the source SSA query file and resolving any discrepancies or inconsistencies on an individual basis. SSA also is responsible for making final determinations as to eligibility for or amount of payments, continuation or adjustments to payments, or any recovery of overpayments as a result of the match.

The electronic SSA query file contains approximately 6.5 million records extracted from the Supplemental Security Income Record.

The electronic DMDC database contains records on approximately 2.15 million retired uniformed service members or their survivors. DMDC will match the SSN on the SSA file by computer matching against the DMDC database.

F. *Inclusive dates of the matching program:* This computer matching program is subject to public comment and review by Congress and the Office of Management and Budget. If the mandatory 30 day period for comment has expired and no comments are received and if no objections are raised by either Congress or the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program becomes effective and the respective agencies may begin the exchange at a mutually agreeable time on a annual basis. By agreement between SSA and DMDC, the matching program will be in effect for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 99–2580 Filed 2–3–99; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $3.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the copies of patent applications sold to avoid premature disclosure.

The following patents and patent applications are available for licensing:

Patent 5,633,960: Spatially Averaging Fiber Optic Accelerometer Sensors; filed 25 September 1996; patented 27 May 1997.//Patent 5,705,412: Method of Making Buried Gate Insulator Field Effect Transistor; filed 7 October 1996; patented 6 January 1998.//Patent 5,734,623: Fiber Optic Sound Velocity Profiler; filed 7 April 1997; patented 31 March 1998.//Patent 5,734,689: Thermal Neutron Detector; filed 29 January 1996; patented 31 March 1998.//Patent 5,735,228: Barge Linking System Using Flexible Connectors; filed 13 March 1997; patented 7 April 1998.//Patent 5,735,639: Modular Mobile Safety Structure for Containment and Handling of Hazardous Materials; filed 13 December 1996; patented 7 April 1998. //Patent 5,736,950: Sigma-Delta Modulator with Tunable Signal Passband; filed 31 January 1995; patented 7 April 1998.//Patent 5,737,067: Length and Elongation Sensor; filed 18 April 1996; patented 7 April 1998.//Patent 5,737,249: Active Sonar Range-Beam Partitioner; filed 27 January 1997; patented 7 April 1998.// Patent 5,737,279: Retractable Sensor Array System; filed 7 August 1996; patented 7 April 1998.//Patent 5,737,347: Laser with Multiple Gain Elements; filed 26 February 1996; patented 7 April 1998.//Patent 5,737,962: Steam Delivery System for Static Testing of Gas Driven Torpedoes; filed 31 July 1996; patented 14 April 1998.//Patent 5,739,738: Inflatable HI Q Toroidal Inductor; filed 18 July 1994; patented 14 April 1998.//Patent 5,740,018: Environmentally Controlled Circuit Pack and Cabinet; filed 29 February 1996; patented 14 April 1998. //Patent 5,741,167: Remotely Controllable Signal Generating Platform; filed 30 October 1995; patented 21 April 1998.//Patent 5,744,221: Flexible High-Damping Composite Structures and a Fabrication Thereof; filed 3 May 1994; patented 28 April 1998.//Patent 5,746,018: Muzzle Brake for an Underwater Gun; filed 19 May 1997; patented 5 May 1998.//Patent 5,746,905: Coating Evaluation System; filed 14 February 1996; patented 5 May 1998.// Patent 5,747,115: UV-Curable and Non-Volatile Pigmented Coatings; filed 28 February 1995; patented 5 May 1998.// Patent 5,748,102: Apparatus for Interconnecting an Underwater Vehicle and a Free Floating Communications Pod; filed 19 September 1995; patented 5 May 1998.//Patent 5,748,667: Spread Spectrum Modulation Using Time Varying Linear Filtering; filed 25 March 1996; patented 5 May 1998.//Patent 5,749,312: System for Deploying Weapons Carried in an Annular Configuration in a UUV; filed 11 October 1995; patented 12 May 1998.// Patent 5,749,959: Dark Coating with Low Solar Infrared Absorbing Properties; filed 10 February 1969; patented 12 May 1998.//Patent 5,750,057: Insensitive Binary Explosive Production Process; filed 5 June 1997; patented 12 May 1998.//Patent 5,750,195: Deposition of Diamond on Oxidizable Material; filed May 1997; patented 12 May 1998.//Patent 5,750,919: Self-Adjusting Obturator for Projectile Launching; filed 16 February 1993; patented 12 May 1998.//Patent 5,750,921: Waste-Free Method of Making Molding Powder; filed 7 July 1997; patented 12 May 1998.//Patent 5,751,006: Water Heated Panels for Simulating the Infrared Signature of a Target; filed 5 May 1997; patented 12 May 1998.//Patent 5,751,260: Sensory Integrated Data Interface; filed 3 April 1995; patented 12 May 1998.//Patent 5,751,294: Approximation Method for Workplace Layout Using Convex Polygon Envelope; filed 27 August 1996; patented 12 May 1998.//Patent 5,751,380: Optical Protection Apparatus for Use with Night Vision Devices; filed 2 October 1995; patented 12 May 1998. //Patent 5,751,609: Neural Network Based Method for Estimating Helicopter Low Airspeed; filed 24 October 1996; patented 12 May 1998.//Patent 5,751,658: Signal Processor for Narrow Band Sonar Signals; filed 1 September 1970; patented 12 May 1998.//Patent 5,751,659: Ceramic Mass Loaded Longitudinal Vibrator; filed 29 September 1969; patented 12 May 1998.//Patent 5,752,026: Early Commit Locking Computer Database Protocol; filed 28 April 1994; patented 12 May 1998.//Patent 5,752,460: Submergible Towed Body System; filed 2 February 1996; patented 19 May 1998.//Patent 5,754,318: Apparatus for Parallel Recording of Holograms in a Dynamic Volume Medium; filed 14 July 1997; patented 19 May 1998.//Patent 5,754,572: Mirrorless, Distributed-Feedback, Ultraviolet, Tunable, Narrow-Linewidth, Solid State Laser; filed 15 November 1996; patented 19 May 1998. //Patent 5,755,425: Fitting for Flexible Fuel Bladder; filed 20 June 1996; patented 26 May 1998. //Patent 5,755,947: Adhesion Enhancement for Underplating Problem; filed 31 January 1996; patented 26 May 1998.//Patent 5,756,006: Inert Simulants for Energetic Materials; filed 7 December 1994; patented 26 May 1998.//Patent 5,756,629: Method for Synthesis of Linear Inorganic-Organic Hybrid Polymers; filed 27 November 1996; patented 26 May 1998.//Patent 5,756,631: Siloxanes with Strong Hydrogen Bond Donating Functionalities; filed 27 May 1994; patented 26 May 1998.//Patent 5,756,992: Blackbody Simulating Apparatus for Calibrating an Infrared Imaging Device; filed 25 July 1996; patented 26 May 1998.//Patent 5,757,309: Spatial Frequency Feature Extraction for a Classification System Using Wavelets; filed 18 December 1996; patented 26 May 1998.//Patent 5,757,487: Methods and Apparatus for Distributed Optical Fiber Sensing of Strain or Multiple Parameters; filed 30 January 1997; patented 26 May 1998.// Patent 5,757,675: Workplace Layout Method Using Convex Polygon Envelope; filed 27 August 1996; patented 26 May 1998.//Patent 5,757,721: Inverse Method to Measure the Breathing Wave Speed in a Liquid-Filed Cylindrical Shell; filed 21 March 1997; patented 26 May 1998.// Patent 5,757,724: Zero Velocity Towed Array System; filed 12 August 1997; patented 26 May 1998.//Patent 5,757,725: Dual Zero Velocity Towed Array System; filed 12 August 1997; patented 26 May 1998.//Patent 5,757,974: System and Method for Data Compression; filed 15 April 1996; patented 26 May 1998.// Patent 5,758,122: Immersive Visual Programming System; filed 16 March 1995; patented 26 May 1998.//Patent

5,758,432: Initiator Positioning Tool; filed 13 August 1996; patented 2 June 1998.//Patent 5,758,592: Undersea Vehicle Propulsion and Attitude Control System; filed 12 August 1997; patented 2 June 1998.//Patent 5,758,691: Self-Sealing Mixing Valve; filed 17 April 1996; patented 2 June 1998.// Patent 5,759,230: Nanostructured Metallic Powders and Films via an Alcoholic Solvent Process; filed 30 November 1995; patented 2 June 1998.//Patent 5,759,620: Formation of Composite Materials by the Inward Diffusion and Precipitation of the Matrix Phase; filed 1 July 1981; patented 2 June 1998.// Patent 5,760,089: Chemical Warfare Agent Decontaminant Solution Using Quaternary Ammonium Complexes; filed 13 March 1996; patented 2 June 1998.//Patent 5,760,388: Biomedical Imaging by Optical Phase Conjugation; filed 24 May 1995; patented 2 June 1998.//Patent 5,760,590: Cable Integrity Tester; filed 20 February 1996; patented 2 June 1998.//Patent 5,760,743: Miss Distance Indicator Data Processing and Recording Apparatus; filed 25 July 1996; patented 2 June 1998.//Patent 5,761,085: Method for Monitoring Environmental Parameters at Network Sites; filed 12 November 1996; patented 2 June 1998. //Patent 5,761,154: Acoustic Exploder; filed 26 August 1969; patented 2 June 1998.//Patent 5,761,909: Breathing Gas Temperature Modification Device; filed 16 December 1996; patented 9 June 1998.//Patent 5,764,662: Solid State Ultraviolet Laser Tunable from 223 NM To 243 NM; filed 27 January 1997; patented 9 June 1998.//Patent 5,764,827: Limited Rotation Connection Device; filed 24 February 1997; patented 9 June 1998.//Patent 5,765,101: Portable VHF Receiver/Tape Recorder Calibrator; filed 23 January 1996; patented 9 June 1998. //Patent 5,765,776: Omnidirectional and Controllable Wing Using Fluid Ejection; filed 22 October 1996; patented 16 June 1998.//Patent 5,766,343: Lower Bandgap, Lower Resistivity, Silicon Carbide Heteroepitaxial Material, and Method of Making Same; filed 17 January 1995; patented 16 June 1998.// Patent 5,766,403: Apparatus for Chemical Removal of Protective Coating and Etching of Cables with Fiber-Like Substrate; filed 26 June 1995; patented 16 June 1998.//Patent 5,769,084: Method and Apparatus for Diagnosing Sleep Breathing Disorders; filed 10 July 1996; patented 23 June 1998.//Patent 5,769,153: Method and Apparatus for Casting Thin-Walled Honeycomb Structures; filed 7 November 1996; patented 23 June 1998.//Patent 5,769,677: Marker Buoy; filed 3 February 1997; patented 23 June 1998. //Patent 5,771,741: Method for Testing Gas Driven Torpedoes Using a Steam Delivery System; filed 9 July 1997; patented 30 June 1998.//Patent 5,771,847: Fuel Oxidizer Emulsion Injection System; filed 24 June 1996; patented 30 June 1998.//Patent 5,771,967: Wick-Interrupt Temperature Controlling heat pipe; filed 12 September 1996; patented 30 June 1998.//patent 5,772,907: lactic acid treatment of inp materials; filed 8 May 1996; patented 30 June 1998.//Patent 5,773,308: photoactivatable o-nitrobenzyl polyethylene glycol-silane for the production of patterned biomolecular arrays; filed 10 February 1997; patented 30 June 1998.//Patent 5,773,920: graded electron affinity semiconductor field emitter; filed 3 July 1995; patented 30 June 1998.//Patent 5,773,933: Broadband Traveling Wave Amplifier with an input stripline cathode and an output stripline anode; filed 29 March 1996; patented 30 June 1998.//Patent 5,773,934: Resistive wall Klystron Amplifier having grounded drift tube; filed 3 April 1966; patented 30 June 1998.//Patent 5,774,421: underwater measurement device; filed 4 August 1997; Patented 30 June 1998.// Patent 5,774,422: method of amplitude shading in the time domain to control side lobes in the frequency domain; filed 15 August 1997; patented 30 June 1998.//Patent 5,779,440: flow energizing system for turbo machinery; filed 6 January 1997; patented 14 July 1998.// Patent application 08/656,494: integrated circuits with immunity to single event effects; filed 31 May 1996. //Patent application 08/710,498: lightweight barrier or armor material and method of protecting a structure; filed 18 September 1996.//Patent application 08/854,033: multi-ported divester valve assembly; filed 9 May 1997.//Patent application 08/863,096: guide tube bend fluid bearing; filed 23 May 1997.//Patent application 08/911,270: homo polar transformer for conversion of electrical energy; filed 14 August 1997.//Patent application 08/933,611: Tapered Cylinder Elector-acoustic Transducer with reversed tapered driver; filed 16 September 1997.//Patent application 08/940,177: two-dimensional onto-electronic imager for millimeter and microwave electro-magnetic radiation; filed 30 September 1997.//Patent application 08/976,132: roller excitation device; filed 29 September 1997.//Patent application 08/979,922: sonar array post processor; filed 28 November 1997.//Patent application 08/990,875: underwater mine placement system; filed 15 December 1997.//Patent application 09/016,334: catalyzed preparation of amorphous chalcogenides; filed 30 January 1998.//Patent application 09/016,870: specular reflection optical bandgap thermometry; filed 17 July 1998.//Patent application 09/022,341: application of reversible crosslinking and co-treatment in stabilization and viral inactivation of erythrocytes; filed 11 February 1998.//Patent application 09/035,909: compression of hyperdata with orasis multisegment pattern sets (chomps); filed 6 March 1998.//Patent application 09/038,483: multi-tuned acoustic projector; filed 4 March 1998. //Patent application 09/045,962: nose cone and method for acoustically shielding an underwater vehicle sonar array; filed 18 March 1998.//Patent application 09/045,963: test apparatus for rotary drive; filed 18 March 1998. // Patent application 09/049,658: fluid propulsion device for use in a projectile launching system; filed 23 March 1998. //Patent application 09/050,960: efficient spatial image separator; filed 31 March 1998.//Patent application 09/053,075: method and apparatus for in situ measurement of corrosion in liquid filled tanks; filed 1 April 1998.//Patent application 09/054,313: beam pattern shaping for transmitter array; filed 31 March 1998.//Patent application 09/054,315: actuated recoil absorbing mounting system for use with an underwater gun; filed 31 March 1998. // Patent application 09/054,316: isolation mount for an acoustic device; filed 31 March 1998.//Patent application 09/054,317: isolated compensated fluid delivery system; filed 31 March 1998. // Patent application 09/058,352: chirped fiber grating beamformer for phased array antennas; filed 10 April 1998.// Patent application 09/061,256: chemical sensor pattern recognition system using a self-training neural network classifier with automated outlier detection; filed 17 April 1998.//Patent application 09/062,565: piston and cylinder actuated polymer mixing valve; filed 20 April 1998.//Patent application 09/062,567: flow control system having actuated elastomeric membrane; filed 20 April 1998.// Patent application 09/062,735: thin-film edge field emitter device; filed 20 April 1998.//Patent application 09/063,269: wavelength multiplexed, electro-optically controllable fiber optic multi-tap delay line; filed 21 April 1998.//Patent application 09/064,360: switch assembly for withstanding shock and vibration; filed 13 April 1998.// Patent application 09/064,717: recoil less and gas-free projectile propulsion; filed 23 April 1998.//Patent application 09/069,855: microwave channelized bandpass filter having two channels;

filed 30 April 1998.//Patent application 09/069,856: general fluctuation sensitive filter; filed 30 April 1998.//Patent application 09/069,932: porous materials by powder metallurgy; filed 30 April 1998.//Patent application 09/070,770: portable launcher; filed 30 April 1998.//Patent application 09/071,737: wavelet transform of super-resolutions based on radar and infrared sensor fusion; filed 1 May 1998.//Patent application 09/090,328: propeller assembly for an underwater device; filed 22 May 1998.//Patent application 09/090,329: neural network hurricane tracker; filed 27 May 1998.//Patent application 09/090,336: captive soft foam shock mount system; filed 27 May 1998.//Patent application 09/115,600: precursor warhead attachment for an anti-armor rocket; filed 15 July 1998.//

FOR FURTHER INFORMATION CONTACT: Mr. John G. Wynn, Staff Patent Attorney, Office of Naval Research (Code OOCC), Arlington, VA 22217–5660, telephone (703) 696–4004.

Authority: 35 U.S.C. 207; 37 CFR Part 404.

Dated: January 26, 1999.

Ralph W. Corey,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–2648 Filed 2–3–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; Systems of Records

AGENCY: Department of the Navy, DoD.

ACTION: Delete Record Systems Notice.

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

DATES: The deletions will be effective on March 8, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

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

The Department of the Navy proposes to delete four systems of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The deletions are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered system report.

Dated: January 29, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N04410–3

SYSTEM NAME:

Duty Free Vehicle Log (February 22, 1993, 58 FR 10743).

Reason: The need to maintain the system of records no longer exists. Activity has been disestablished and all files destroyed.

N10140–4

SYSTEM NAME:

USAREUR/USAFE Ration Card (February 22, 1993, 58 FR 10814).

Reason: The need to maintain the system of records no longer exists. Activity has been disestablished and all files destroyed.

N10140–6

SYSTEM NAME:

Gasoline Ration System (February 22, 1993, 58 FR 10814).

Reason: The need to maintain the system of records no longer exists. Activity has been disestablished and all files destroyed.

N10140–7

SYSTEM NAME:

Application for U.S. Navy Ration Permit (February 22, 1993, 58 FR 10815).

Reason: The need to maintain the system of records no longer exists. Activity has been disestablished and all files destroyed.

[FR Doc. 99–2578 Filed 2–3–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records Notice

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend a record system.

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

DATES: The amendment will be effective on March 8, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

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

The Department of the Navy proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The changes to the system of records are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of new or altered systems report. The record system being amended is set forth below, as amended, published in its entirety.

Dated: January 29, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05800–1

SYSTEM NAME:

Legal Office Litigation/Correspondence Files *(September 20, 1993, 58 FR 48852).*

CHANGES:

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Associate General Counsel (Litigation), Office of the General Counsel of the Navy, 901 M Street SE, Washington Navy Yard, Washington, DC 20374–5012.'

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the naval activity involved in the litigation or to the Office of the General Counsel of the Navy, 901 M Street SE, Washington

Navy Yard, Washington, DC 20374–5012.

Written requests should include name and date litigation was filed.'

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the naval activity involved in the litigation or to the Office of the General Counsel of the Navy, 901 M Street SE, Washington Navy Yard, Washington, DC 20374–5012.

Written requests should include full name and year litigation commenced.'

* * * * *

N05800–1

SYSTEM NAME:

Legal Office Litigation/Correspondence Files.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in litigation which requires Navy action.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements; affidavits/declarations; investigatory and administrative reports, including background investigations to determine suitability for service; personnel, financial, medical and business records; promotion/evaluation information; test or evaluation materials; hotline complaints and responses thereto; discovery and discovery responses; motions; orders; rulings; letters; messages; forms; reports; surveys; audits; summons; English translations of foreign documents; photographs; legal opinions; subpoenas; pleadings; memos; related correspondence; briefs; petitions; court records involving litigation; and, related matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

To prepare correspondence and materials for litigation.

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

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

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

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

STORAGE:

File cabinets and computerized docket system.

RETRIEVABILITY:

Name of individual and the year litigation commenced.

SAFEGUARDS:

Manual records are maintained in file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is locked outside of official working hours. Computer terminals are located in supervised areas. Access is controlled by password or other user code system.

RETENTION AND DISPOSAL:

After closure, records are sent to Federal Records Center where they are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Associate General Counsel (Litigation), Office of the General Counsel of the Navy, 901 M Street SE, Washington Navy Yard, Washington, DC 20374–5012.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the naval activity involved in the litigation or to the Office of the General Counsel of the Navy, 901 M Street SE, Washington Navy Yard, Washington, DC 20374–5012.

Written requests should include name and date litigation was filed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the naval activity involved in the litigation or to the Office of the General Counsel of the Navy, 901 M Street SE, Washington Navy Yard, Washington, DC 20374–5012.

Written requests should include full name and year litigation commenced.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Court records, records from the individual, personal interviews and statements, departmental records such as personnel files, medical records, State and Federal records, police reports and complaints, general correspondence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process.

Evaluation material used to determine potential for promotion in the Military Services may be exempt pursuant to 5 U.S.C. 552a(k)(7), but only to the extent that the disclosure of such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and 3, (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the system manager.

[FR Doc. 99–2579 Filed 2–3–99; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Federal Interagency Coordinating Council Meeting (FICC)

AGENCY: Federal Interagency Coordinating Council, Education.

ACTION: Notice of a public meeting.

SUMMARY: This notice describes the schedule and agenda of a forthcoming meeting of the Federal Interagency Coordinating Council, and invites people to participate. Notice of this meeting is required under section 685(c) of the Individuals with Disabilities Education Act (IDEA) and is intended to notify the general public of their opportunity to attend the meeting. The meeting will be accessible to individuals with disabilities.

DATE AND TIME: Thursday, March 4, 1999, from 9:00 a.m. to 4:30 p.m.

ADDRESSES: Hilton, Crystal City, 2399 Jefferson Davis Highway, Arlington, VA 22202, near the Crystal City metro stop.

FOR FURTHER INFORMATION CONTACT: Libby Doggett or Kim Lawrence, U.S. Department of Education, 330 C Street, SW, Room 3080, Switzer Building, Washington, DC 20202–2644. Telephone: (202) 205–5507. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 205–9754.

SUPPLEMENTARY INFORMATION: The Federal Interagency Coordinating Council (FICC) is established under section 685 of the individuals with Disabilities Education Act (20 U.S.C. 1484a). The Council is established to: (1) Minimize duplication across Federal, State and local agencies of programs and activities relating to early intervention services for infants and toddlers with disabilities and that their families and preschool services for children with disabilities; (2) ensure effective coordination of Federal early intervention and preschool programs, including Federal technical assistance and support activities; and (3) identify gaps in Federal agency programs and services and barriers to Federal interagency cooperation. To meet these purposes, the FICC seeks to: (1) Identify areas of conflict, overlap, and omissions in interagency policies related to the provision of services to infants, toddlers, and preschoolers with disabilities; (2) develop and implement joint policy interpretations on issues related to infants, toddlers, and preschoolers that cut across Federal agencies, including modifications of regulations to eliminate barriers to interagency programs and activities; and (3) coordinate the provision of technical assistance and dissemination of best practice information. The FICC is chaired by the Assistant Secretary for Special Education and Rehabilitative Services.

This FICC meeting coincides with the early intervention and preschool directors (Part C and 619 of IDEA) meetings held in the same location with overlapping times. At this meeting the Maternal and Child Health Bureau in conjunction with the FICC is sponsoring a policy forum on Thursday morning with Dr. Jack Shonkoff. The FICC members will be the policy forum respondents. During the afternoon session the FICC will attend to ongoing work including reports from a technical assistance survey, a Department of Defense Task Force, and Medicaid Benefits Task Force. To request a packet of materials or accommodations such as interpreters for persons who are hearing impaired, materials in Braille, large print, or cassette please call Kim Lawrence at (202) 205–5507 (voice) or (202) 205–9754 (TDD) by February.

Summary minutes of the FICC meetings will be maintained and available for public inspection at the U.S. Department of Education, 330 C Street, SW, Room 3080, Switzer Building, Washington, DC 20202–2644, from the hours of 9:00 a.m. to 5:00 p.m., weekdays, except Federal Holidays.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–2584 Filed 2–3–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Oakland Operations Office; Financial Assistance Award (Grant)

AGENCY: U. S. Department of Energy.

ACTION: Solicitation of applications for grant awards for high-energy-density and laser-matter interaction studies.

SUMMARY: Pursuant to 10 CFR 600.8, the U.S. DOE announces that it plans to conduct a technically competitive solicitation for basic research experiments in high-energy-density and laser-matter interaction studies at the National Laser Users' Facility (NLUF) located at the University of Rochester Laboratory for Laser Energetics (UR/LLE). Grant Solicitation No. DE–PS03–99SF21812 Universities or other higher education institutions, private sector not-for-profit organizations, or other entities are invited to submit grant applications. The total amount of funding expected to be available for the Fiscal Year 2000 (FY00) program cycle is $700,000. Multiple awards are anticipated.

FOR FURTHER INFORMATION CONTACT: James Solomon, Contracting Officer, Financial Assistance Center—FAC, DOE Oakland Operations Office, 1301 Clay Street, Room 700N, Oakland, CA 94612–5208, Telephone No.: (510) 637–1865, Facsimile No.: (510) 637–2074, e mail: james.solomon@oak.doe.gov.

SUPPLEMENTARY INFORMATION: The solicitation document contains all the information relative to this action for prospective applicants. The solicitation is targeted for release on or about March 1, 1999. The actual work to be accomplished will be determined by the experiments and diagnostic techniques that are selected for award. Proposed experiments and diagnostic techniques will be evaluated through scientific peer review against predetermined, published and available criteria. Final selection will be made by the DOE. It is anticipated that multiple grants will be awarded within the available funding. The unique resources of the NLUF are available, on a no-fee basis, to scientists for state-of-the art experiments primarily in the area of inertial confinement fusion (ICF) and related plasma physics. Other areas such as spectroscopy of high ionized atoms, laboratory astrophysics, fundamental physics, materials science and biology and chemistry will be considered on a secondary basis.

The LLE was established in 1970 to investigate the interaction of high-power lasers with matter. Available at the LLE for NLUF researchers is the upgraded Omega Laser, a 30–40 kJ UV, 60-beam laser system (at 0.35 um) suitable for direct-drive ICF implosions and other experimental configurations. This system is suitable for a variety of experiments including laser-plasma interactions and atomic spectroscopy. The NLUF program for FY00 will support experiments that can be done with the Omega Laser at the University of Rochester and development of diagnostic techniques suitable for the Omega Laser system. Measurements of the laser coupling, laser-plasma interactions, core temperature, and core density are needed to determine the characteristics of target implosions. Diagnostic techniques could include either new instrumentation, development of analysis tools, or development of targets that are applicable for 30–40 kJ implosions. Additional technical information about the available facilities and potential collaboration at the NLUF can be

obtained from: Dr. John M. Soures, Manager, National Laser Users' Facility, University of Rochester/LLE 250 East River Road, Rochester, NY 14623–1299.

Issued in Oakland, CA January 28, 1999.

Edward Knuckles,

Acting Director, Financial Assistance Center, Oakland Operations Office.

[FR Doc. 99–2659 Filed 2–3–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–3760–000, EC96–19–000, and ER96–1663–000 (Not Consolidated)]

California Independent System Operator Corporation; Notice of Conference

January 29, 1999.

Take notice that a conference will be convened in the subject proceedings commencing Wednesday, February 10, 1999 at 9:30 a.m. PST and will continue on Thursday, February 11, 1999. The conference will be held at the offices of Pacific Gas and Electric Company, 77 Beale Street, San Francisco, CA. The purpose of the conference is to discuss the list of unresolved issues in preparation for the report to the Commission. *See* California Independent System Operator Corp., 84 FERC ¶ 61,217 (1998). Additionally, the parties will attempt to resolve some of those issues.

Any party, as defined by 18 CFR 385.102(c) may attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to Section 385.214 of the Commission's Regulations.

For additional information, please contact David Cain at (202) 208–0917 or david.cain@ferc.fed.us, or Bill Collins at (202) 208–0248 or william.collins@ferc.fed.us.

David P. Boergers,

Secretary.

[FR Doc. 99–2591 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–159–000]

Columbia Gulf Transmission Company; Notice of Request Under Blanket Authorization

January 29, 1999.

Take notice that on January 19, 1999, Columbia Gulf Transmission Company (Columbia Gulf), 2603 Augusta, Suite 125, Houston, Texas 77001, filed in Docket No. CP99–159–000 a request pursuant to Sections 157.205, 157.208 and 157.211 of the Commission's Regulations (18 CFR 157.205, 157.208 and 157.211) under the Natural Gas Act (NGA) for authorization to construct and operate pipeline and delivery point facilities for deliveries to New Albany Power I, L.L.C. (New Albany) near New Albany, Mississippi, under Columbia Gulf's blanket certificate authorization issued in Docket No. CP83–496–000, pursuant to Section 7 of the NGA, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia Gulf proposes to construct, own and operate facilities consisting of 1,000 feet of 12-inch pipeline and appurtenances, extending from Columbia Gulf's mainline system to a new interconnection with the facilities of New Albany. Columbia Gulf proposes to use the facilities to provide backhaul transportation service for New Albany, delivering 75,032 dt equivalent of natural gas to New Albany on a firm basis under its FTS–1 rate schedule. Columbia Gulf estimates the cost of the facilities $857,000. It is stated that the deliveries will be within existing entitlements. It is asserted that the proposal will not impact Columbia Gulf's existing peak day obligations to its existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

David P. Boergers,

Secretary

[FR Doc. 99–2596 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–410–004]

Koch Gateway Pipeline Company; Notice of Compliance Filing

January 29, 1999.

Take notice that on January 26, 1999, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, to become effective October 19, 1998.

3rd Sub Fourth Revised Sheet No. 1805

Koch states that the purpose of this filing is to respond to the Director of Office of Pipeline Regulation Letter Order Pursuant to 375.307 (b)(1) and (b)(3) issued on January 11, 1999, in Docket No. RP98–410–003.

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. 99–2598 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1206–000]

Niagara Mohawk Power Corporation; Notice of Withdrawal

January 29, 1999.

Take notice that on January 20, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing a Notice of Withdrawal of Filing

applicable to the executed Service Agreement it filed on January 7, 1999 on behalf of Central Hudson Gas & Electric under its proposed Scheduling and Balancing Services Tariff. The Commission's Order Rejecting Scheduling And Balancing Tariff, And Accepting In Part And Rejecting In Part (As Modified) Proposed Amendment To Open Access Tariff (issued January 11, 1999) mandates the withdrawal of the Central Hudson Service Agreement.

Copies of the filing were served upon Central Hudson Gas & Electric and the New York Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 19 CFR 385.214). All such motions and protests should be filed on or before February 9, 1999. Protests will be considered by the Commission to determine 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.

David P. Boergers,

Secretary.

[FR Doc. 99–2590 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR99–6–000]

PG&E Gas Transmission Teco Inc.; Notice of Petition for Rate Approval

January 29, 1999.

Take notice that on January 19, 1999, PG&E Gas Transmission Teco Inc. (Teco) filed a Petition for Approval of Restated Rates and Charges for Transportation provided under Section 311 of the NGPA. Teco states that its petition is filed pursuant to Section 284.123(b)(2) of the Commission's regulations, 18 CFR 4.123(b)(2) and an October 20, 1997 letter order issued in Docket No. PR97–2–000 and 001. 81 FERC ¶ 61,066 (1997). In its petition, Teco states that it has restated its currently-effective transportation rates and charges and requests authorization to continue to use such rates and charges for services provided pursuant to Section 311 of the NGPA.

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, N.E., Washington, D.C. 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 on or before February 5, 1999. 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. 99–2597 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–46–002]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

January 29, 1999.

Take notice that on January 26, 1999, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Second Substitute Original Sheet Nos. 81A.01a and 81A.01b.

PG&E GT–NW states that these tariff sheets are filed in compliance with the Commission's January 14, 1999 Letter Order in this Docket. PG&E GT–NW requests that the above-referenced tariff sheets become effective November 2, 1998.

PG&E GT–NW further states that a copy of this filing has been served on PG&E GT–NW's jurisdictional customers, interested state regulatory agencies and all parties on the Commission official service list for this proceeding.

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. 99–2600 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–413–002]

Questar Pipeline Company; Notice of Tariff Filing

January 29, 1999.

Take notice that on January 26, 1999, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Substitute Third Revised Sheet No. 75B, to be effective November 2, 1998.

Questar states that the filing is being made in compliance with the Commission's letter order issued January 13, 1999, in Docket No. RP98–413–001.

The January 13 order directed Questar to revise its November 13, 1998, filing that was made in compliance with the Commission's October 30, 1998, letter order. These filings revised Questar's FERC Gas Tariff, First Revised Volume No. 1 to incorporate requirements set forth in 18 CFR 284.10(c)(1)(i) by the Commission's Order No. 587–H issued July 15, 1998.

Questar stated that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

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. 99–2599 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–854–007, et al.]

Kentucky Utilities Company, et al.; Electric Rate and Corporate Regulation Filings

January 27, 1999.

Take notice that the following filings have been made with the Commission:

1. Kentucky Utilities Company

[Docket No. ER95–854–007]

Take notice that on January 22, 1999, Kentucky Utilities Company (KU), tendered for filing a report on refunds filed in compliance with the Commission's November 25, 1998, opinion and order in the above-referenced docket.

KU states that copies of this filing have been served on the parties to this proceeding, the Kentucky Public Service Commission, and the Virginia State Corporation Commission.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. J. W. Walker & Associates, Utility Management Corporation, CNB/Olympic Gas Services, PowerTec International, LLC, EnergyOnline, Inc., ONEOK Power Marketing Company, Superior Electric Power Corporation, Southern Energy Marketing Corporation, Inc., d/b/a SEMCOR ENERGY, Gulfstream Energy, LLC, North American Energy, Inc., Texaco Energy Services, TransCanada Power Marketing Ltd.

[Docket Nos. ER95–1261–014, ER96–1144–000, ER95–964–010, ER96–1–013, ER96–138–007, ER98–3897–002, ER95–1747–013, ER96–1516–008, ER94–1597–015, ER98–242–005, ER95–1787–012, ER98–564–002]

Take notice that on January 19, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

3. Family Fiber Connection, Power Access Management, Enova Energy, Inc., Poco Petroleum, Inc., United American Energy Corp., Hinson Power Company, CMS Marketing, Services and Trading Company, GDK, MIECO Inc., SDS Petroleum Products, Inc., Energy Marketing Services, Inc.

[Docket Nos. ER96–1631–003, ER97–1084–001 thru ER97–1084–007, ER96–2372–013, ER97–2198–006, ER96–3092–010, ER95–1314–015, ER96–2350–016, ER96–1735–009 and ER96–1735–010, ER98–51–005, ER96–1724–008, ER96–734–006]

Take notice that on January 19, 1999 the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

4. ENERGY PM, INC., ICPM, Inc., R. Hadler and Company, Inc., National Power Marketing Co. LLC, J. Aron & Company, Unicom Power Marketing, Inc., LS Power Marketing, LLC, NP Energy Inc., NESI Power Marketing, Inc., Tractebel Energy Marketing, Inc.

[Docket Nos. ER98–2918–001 and ER98–2918–002, ER95–640–014, ER97–3056–003, ER96–2942–004 and ER96–2942–005, ER95–34–018, ER97–3954–006, ER96–1947–010, ER97–1315–009, ER97–841–008, ER94–142–021]

Take notice that on January 20, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet under Records Information Management System (RIMS) for viewing and downloading.

5. AES NY, LLC

[Docket No. ER99–564–001]

Take notice that on January 22, 1999, AES NY, LLC, tendered for filing pursuant to § 131.51 (18 CFR 131.51) of the Commission's Regulations, notification that on January 22, 1999, AES Eastern Energy, L.P., and AES Creative Resources, L.P., each hereby adopt, ratify, and make their own, in every respect all applicable rate schedules, and supplements thereto, FERC Electric Tariff, Original Volume No. 1, Market Based Rate Tariff heretofore filed with the Federal Energy Regulatory Commission by AES NY, L.L.C., effective January 22, 1999.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Southwestern Public Service Company

[Docket No. ER99–797–000]

Take notice that on January 21, 1999, Southwestern Public Service Company tendered for filing a request to withdraw its filing of a proposed Power Sale Agreement with e prime, Inc filed on December 3, 1998, in the above-referenced docket.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Washington Water Power Company

[Docket No. ER99–824–000]

Take notice that on January 21, 1999, Avista Corp. (formerly Washington Water Power Company), tendered for filing pursuant to Section 35.12 of the Commission's Regulations, 18 CFR 35.12, an executed long-term service agreement with Enron Power Marketing, Inc. (EPMI), under Avista Corp.'s FERC Electric Tariff, Volume No. 9. Avista Corp., submitted the service agreement as a replacement for the executed long-term service agreement filed by WWP on December 4, 1998, under its FERC Electric Tariff, First Revised Volume No. 9, which service agreement was withdrawn.

Pursuant to the Commission's order in Docket No. ER97–7–000, Avista Corp., filed this long-term service agreement within 30 days of the date of commencement of service, January 1, 1999.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. West Penn Power Company

[Docket No. ER99–898–000]

Take notice that on January 22, 1999, West Penn Power Company amended its filing in this docket to include a non confidential copy of its energy supply agreement with the Borough of Chambersburg.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Allegheny Energy, Inc.

[Docket No. ER99–1141–000]

Take notice that on January 22, 1999, Allegheny Energy, Inc., tendered for filing an amendment requesting effective dates of November 20, 1998, November 25, 1998, and December 10, 1998 for its power supply agreements with New Martinsville, Philippi and Harrison Rural Electrification

Association respectively filed with the Federal Energy Regulatory Commission on December 31, 1998.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. PECO Energy Company

[Docket No. ER99–1389–000]

Take notice that on January 20, 1999, PECO Energy Company (PECO), tendered for filing a Service Agreement dated January 19, 1999 with Alabama Electric Cooperative, Inc. (AEC), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds AEC as a customer under the Tariff.

PECO requests waiver of the Commission's notice requirement and an effective date of March 28, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to AEC and to the Pennsylvania Public Utility Commission.

Comment date: February 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Virginia Electric and Power Company

[Docket No. ER99–1398–000]

Take notice that on January 21, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service with Merrill Lynch Capital Services, Inc. (Transmission Customer), under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide Non-Firm Point-to-Point Transmission Service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of the date of January 21, 1999, the date of filing of the Service Agreement.

Copies of the filing were served upon Merrill Lynch Capital Services, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Western Resources, Inc.

[Docket No. ER99–1399–000]

Take notice that on January 21, 1999, Western Resources, Inc. (Western Resources), tendered for filing a proposed change to its Rate Schedule FPC No. 127. Western Resources states that the change is to extend the term under its electric interconnection agreement with the City of McPherson, Kansas, Board of Public Utilities (McPherson).

The change is proposed to become effective February 6, 1997.

Copies of the filing were served upon McPherson and the Kansas Corporation Commission.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Ameren Services Company

[Docket No. ER99–1400–000]

Take notice that on January 21, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Market Based Rate Power Sales between ASC and Constellation Power Source, Inc., (CPS). ASC asserts that the purpose of the Agreement is to permit ASC to make sales of capacity and energy at market based rates to CPS pursuant to ASC's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

ASC requests that the Service Agreement be allowed to become effective August 10, 1998, the date of said agreement.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Company of New Mexico

[Docket No. ER99–1401–000]

Take notice that on January 21, 1999, Public Service Company of New Mexico (PNM), tendered for filing an executed service agreement, dated January 15, 1999, for firm point-to-point transmission service and ancillary services, between PNM Transmission Development and Contracts (Transmission Provider) and PNM International Business Development (Transmission Customer), under the terms of PNM's Open Access Transmission Service Tariff. This service agreement supersedes an existing service agreement between the Transmission Provider and the Transmission Customer which expired by its own terms on December 31, 1998. Under the Service Agreement, Transmission Provider provides to Transmission Customer reserved capacity from PNM's San Juan Generating Station 345 kV Switchyard (point of receipt) to PNM's Luna 345kV Switching Station (point of Delivery) for the period beginning January 1, 1999 and ending December 31, 1999.

PNM requests an effective date of January 1, 1999, for this agreement.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Hermiston Generating Company, L.P.

[Docket No. ER99–1404–000]

Take notice that on January 20, 1999, Hermiston Generating Company, L.P. (Hermiston), tendered for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's Regulations, a request for modification of an existing rate schedule.

Comment date: February 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Niagara Mohawk Power Corporation

[Docket No. ER99–1405–000]

Take notice that on January 21, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and Electric Clearinghouse, Inc.

This Transmission Service Agreement specifies that Electric Clearinghouse, Inc., has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and Electric Clearinghouse, Inc., to enter into separately scheduled transactions under which Niagara Mohawk will provide transmission service for Electric Clearinghouse, Inc., as the parties may mutually agree.

Niagara Mohawk requests an effective date of January 12, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and Electric Clearinghouse, Inc.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Niagara Mohawk Power Corporation

[Docket No. ER99–1406–000]

Take notice that on January 21, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and Electric Clearinghouse, Inc. This Transmission Service

Agreement specifies that Electric Clearinghouse, Inc., has signed on to and has agreed to the terms and conditions of Niagara Mohawks Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and Electric Clearinghouse, Inc., to enter into separately scheduled transactions under which Niagara Mohawk will provide transmission service for Electric Clearinghouse, Inc., as the parties may mutually agree.

Niagara Mohawk requests an effective date of January 12, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and Electric Clearinghouse, Inc.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Consumers Energy Company

[Docket No. ER99–1408–000]

Take notice that on January 20, 1999, Consumers Energy Company (Consumers), tendered for filing executed service agreements for Non-Firm Point-to-Point Transmission Service with: (1) El Paso Power Services Company, (2) NorAm Energy Services, Inc., and (3) Engage Energy Services US, L.P. (collectively, Customers). All three agreements were pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison).

The Engage Energy Services US, L.P., agreement has an effective date of January 11, 1999 and the other two agreements have effective dates of January 1, 1999.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and the Customers.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Spokane Energy, LLC

[Docket No. ER99–1409–000]

Take notice that on January 21, 1999, Spokane Energy, LLC (Spokane Energy), tendered for filing, pursuant to Section 35.12 of the Commission's Regulations, 18 CFR 35.12, a new FERC Electric Tariff Volume No. 2, providing for the purchase and sale of firm capacity between Spokane Energy and Portland General Electric Company.

Spokane Energy requests an effective date of December 31, 1998, for the tariff.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Southwest Power Pool

[Docket No. ER99–1411–000]

Take notice that on January 21, 1999, Southwest Power Pool (SPP), tendered for filing executed service agreements for short-term firm point-to-point and non-firm point-to-point firm transmission service under the SPP Tariff with Kansas Municipal Energy Agency (KMEA).

SPP requests an effective date of January 5, 1999, for each of these agreements.

Copies of this filing were served upon KMEA.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Virginia Electric and Power Company

[Docket No. ER99–1412–000]

Take notice that on January 21, 1999, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service with Merrill Lynch Capital Services, Inc. (Transmission Customer), under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide Firm Point-to-Point Transmission Service to the Transmission Customer under the rates, terms and conditions of the Open Access Transmission Tariff.

Virginia Power requests an effective date of the date of January 21, 1999, the date of filing of the Service Agreement.

Copies of the filing were served upon Merrill Lynch Capital Services, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Montana Power Company

[Docket No. ER99–1415–000]

Take notice that on January 19, 1999, Montana Power Company tendered for filing with the Federal Energy Regulatory Commission a quarterly report for the quarter ending December 31, 1998.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Kansas City Power & Light Company

[Docket No. ER99–1416–000]

Take notice that on January 19, 1999, Kansas City Power & Light Company (KCPL) tendered for filing its report of transactions under KCPL's GSS Tariff for the fourth quarter of 1998.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Delmarva Power & Light Company

[Docket No. ER99–1417–000]

Take notice that on January 19, 1999, Delmarva Power & Light Company (Delmarva) tendered for filing a summary of short-term transactions made during the fourth quarter of calendar year 1998 under Delmarva's Market Rate Sales Tariff, FERC Electric Tariff, Original Volume No. 14, filed by Delmarva in Docket No. ER96–2571–000.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Central Hudson Gas & Electric Corporation

[Docket No. ER99–1418–000]

Take notice that on January 20, 1999, Central Hudson Gas & Electric Corporation tendered for filing with the Federal Energy Regulatory Commission, a transaction report for the quarter ending December 31, 1998, pursuant to the Commission's order issued on June 26, 1997 in Docket No. ER97–2872–000.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Commonwealth Edison Company

[Docket No. ER99–1419–000]

Take notice that on January 20, 1999, Commonwealth Edison Company tendered for filing with the Federal Energy Regulatory Commission, a quarterly market-based transaction report for the calendar quarter ending December 31, 1998.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. PECO Energy Company

[Docket No. ER99–1422–000]

Take notice that on January 22, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. S 792 et seq., an Agreement dated December 31, 1998 with CMS Marketing, Services and Trading (CMS) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of January 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to CMS and to the Pennsylvania Public Utility Commission.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER99–1423–000]

Take notice that on January 22, 1999, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), tendered for filing an executed Service Agreement between GPU Energy and FirstEnergy Trading & Power Marketing Inc. (FirstEnergy), dated January 11, 1999. This Service Agreement specifies that FirstEnergy has agreed to the rates, terms and conditions of GPU Energy's Market-Based Sales Tariff (Sales Tariff) designated as FERC Electric Rate Schedule, Second Revised Volume No. 5. The Sales Tariff allows GPU Energy and FirstEnergy to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus capacity and/or energy.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of January 11, 1999, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Avista Corporation

[Docket No. ER99–1424–000]

Take notice that on January 22, 1999, Avista Corporation (formerly Washington Water Power Company), tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under Avista Corporation's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8, with Public Service Company of New Mexico and Cargill-Alliant, LLC.

Avista Corporation requests the Service Agreements be given respective effective dates of December 22, 1998 and January 11, 1999.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Commonwealth Edison Company

[Docket No. ER99–1427–000]

Take notice that on January 22, 1999, Commonwealth Edison Company (ComEd), tendered for filing a service agreement establishing Central and South West Services (CSW) as a customer under ComEd's FERC Electric Market-Based Rate Schedule for power sales.

ComEd requests an effective date of December 24, 1998, for the service agreement, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of the filing was served on CSW.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. Idaho Power Company

[Docket No. ER99–1428–000]

Take notice that on January 22, 1999, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Letter Amendment to the Agreement for Supply of Power and Energy between Idaho Power Company and the Utah Associated Municipal Power Systems, dated February 10, 1988.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. CET Marketing L.P.

[Docket No. ER99–1429–000]

Take notice that on January 22, 1999, CET Marketing L.P. (CET Marketing), tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations, of a Partial Assignment and Assumption Agreement between Cogen Energy Technology L.P. (CETLP) and CET Marketing. Pursuant to that agreement, CET Marketing takes, from time to time, partial assignment of the rights under a Power Put and Interconnection Agreement executed in May 1998 between CETLP and Niagara Mohawk Power Corporation.

CET Marketing requests waiver of the 60 day filing requirement and an effective date of November 4, 1998.

A copy of this filing has been served on the New York Public Service Commission.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. Entergy Services, Inc.

[Docket No. ER99–1431–000]

Take notice that on January 22, 1999, Entergy Services, Inc., (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing notice that effective January 22, 1999, the Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Vastar Power Marketing, Inc., Service Agreement No. 47, under FERC Electric Tariff, Original Volume No. 3, effective July 15, 1997, Entergy Services, Inc., is to be canceled.

Notice of the proposed cancellation has been served upon Vastar Power Marketing, Inc., and Southern Company Energy Marketing L.P., by Entergy Services.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. Kincaid Generation, L.L.C.

[Docket No. ER99–1432–000]

Take notice that on January 22, 1999, Kincaid Generation, L.L.C. (KGL), tendered for filing proposed revisions to its FERC Electric Rate Schedule No. 1, and requested certain waivers of the Commission's Regulations. The proposed revisions would expand KGL's existing limited market-based rate authority to blanket market-based rate authority.

The reason for the proposed revisions is to expand KGL's market-based rate authority to blanket market-based rate authority.

Copies of the filing were served upon KGL's current jurisdictional customers and the Illinois Commerce Commission.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

35. Idaho Power Company

[Docket No. ER99–1433–000]

Take notice that on January 21, 1999, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company's FERC Electric Tariff No. 6, Market Rate Power Sales Tariff, between Idaho Power Company and Energy West Resources.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

36. Bangor Hydro-Electric Company

[Docket No. ER99–1434–000]

Take notice that on January 22, 1999, Bangor Hydro-Electric Company tendered for filing the Interconnection and Transmission Facilities Agreement by and between Bangor Hydro-Electric Company and Casco Bay Energy Company, L.L.C.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

37. Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc.

[Docket No. ER99–1446–000]

Take notice that on January 19, 1999, Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota) tendered for filing with the Federal Energy Regulatory Commission pursuant to the Commission's October 16, 1998 Order in this proceeding, a report of short-term transactions that occurred during the quarter ending December 31, 1998.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

38. Lowell Cogeneration Company Limited Partnership

[Docket No. ER99–1448–000]

Take notice that on January 19, 1999, Lowell Cogeneration Company Limited Partnership tendered for filing a summary of activity for the Quarter ending December 31, 1998.

Comment date: February 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

39. Howard/Avista Energy, LLC

[Docket No. ER99–1449–000]

Take notice that on January 22, 1999, Howard/Avista Energy, LLC, tendered for filing notification that effective December 31, 1998, Rate Schedule FERC No. 1, effective date December 16, 1997, and filed with the Federal Energy Regulatory Commission by Howard/Avista Energy, LLC is to be canceled.

No purchasers are affected by the cancellation of Rate Schedule FERC No. 1.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

40. Missouri-Kansas Power Pool

[Docket No. ER99–1450–000]

Take notice that on January 22, 1999, Missouri-Kansas Power Pool (MOKAN), tendered for filing notification that effective January 22, 1999, MOKAN's Open Access Transmission Tariff effective May 13, 1997, and the General Participation Agreement of the MOKAN Power Pool, effective date March 1, 1997, and filed with the Federal Energy Regulatory Commission by MOKAN, are to be canceled.

Notice of the proposed cancellation has been served upon all of the members of MOKAN and the affected state commissions.

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

41. MidAmerican Energy Company

[Docket No. OA97–313–007]

Take notice that on December 30, 1998, MidAmerican Energy Company filed revised standards of conduct in response to the Commission's December 18, 1998, Order on Standards of Conduct, 85 FERC ¶ 61,145 (1998).

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

42. Sierra Pacific Power Company

[Docket No. OA97–464–002 OA97–464–003]

Take notice that on December 23, 1998 and January 22, 1999, Sierra Pacific Power Company submitted revised standards of conduct in response to the Commission's October 29, 1998, Order on Standards of Conduct, 85 FERC ¶ 61,145 (1998).

Comment date: February 11, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–2615 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2609–013–NY]

Curtis/Palmer Hydroelectric Company L.P.; International Paper Company; Notice of Availability of Draft Environmental Assessment

January 29, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the existing Curtis/Palmer Falls Hydroelectric Project, located in Warren and Saratoga Counties, New York, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426. The DEA may also be viewed on the web at www.ferc.fed.us. Please call (202) 208–2222 for assistance.

Any comments should be filed within 45 days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1–A, Washington, DC 20426. Please affix ''Curtis/Palmer Falls Hydroelectric Project No. 2609'' to the top of all comments. For further information, please call Tom Dean at (202) 219–2778.

David P. Boergers,

Secretary.

[FR Doc. 99–2594 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

J.M. Miller Enterprises, Inc.; Notice of Availability of Final Environmental Assessment

[Project No. 11060–000; Idaho]

January 29, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for an original, minor license for the proposed Sahko Hydroelectric Project. The project would be located on the Kastelu Drain, an irrigation return ditch also known as Southside 39 Drain, near Filer, Idaho in Twin Falls County.

On August 27, 1998, the Commission staff issued a draft environmental assessment (DEA) for the project, and requested that comments be filed with the Commission within 30 days. Comments were filed by three entities and are addressed in the final environmental assessment (FEA) for the project.

The FEA contains the staff's analysis of the potential environmental impacts of the project and has concluded that licensing the project, with appropriate environmental protective measures, would not be a major federal action significantly affecting the quality of the human environment.

Copies of the DEA and FEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426. They may be viewed on the web at www.ferc.fed.us. Call 202 208–2222 for assistance.

David P. Boergers,

Secretary.

[FR Doc. 99–2595 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License

January 29, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Transfer of Licenses.

b. *Project Nos.:* (1) 2403–013, (2) 2534–021, (3) 2666–009, (4) 2710–011, (5) 2712–015, (6) 2721–015, and (7) 2727–059.

c. *Date Filed:* December 7, 1998.

Date Amended: January 22, 1999.

d. *Applicants:* Bangor Hydro-Electric Company (Bangor) and Penobscot Hydro, LLC (Penobscot).

e. *Name and Location of Projects:* (1) Veazie, (2) Milford, (3) Medway, (4) Orono, and (5) Stillwater: Penobscot and Stillwater Rivers in Penobscot County, Maine; (6) Howland: Piscataquis River in Penobscot County, Maine; and (7) Ellsworth: Union River in Hancock County, Maine.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

g. *Applicant Contacts:*

For Bangor: Alan M. Spear, Bangor Hydro-Electric Company, 33 State Street, Bangor, ME 04402, (207) 941–6697.

For Penobscot: Robert W. Burke, Jr., Penobscot Hydro, Inc., 11350 Random Hills Road, Suite 400, Fairfax, VA 22030, (703) 293–2600.

Attorney for Applicants: John A. Whittaker, IV, Winston & Strawn, 1400 L Street, NW, Washington, DC 20005–3502, (202) 371–5766.

h. *FERC Contact:* James Hunter, (202) 219–2839.

i. *Comment Date:* February 24, 1999.

j. *Description of Transfer:* Transfer of the licenses for these projects to Penobscot is being sought in connection with the divestiture by Bangor of certain generation and other assets, pursuant to Maine Public Law 1997, ch. 316, 35–A § 3204, *et seq.* (An Act to Restructure the State's Electric Industry).

The transfer application was filed within five years of the expiration of the licenses for Projects Nos. 2666 and 2721, which are the subject of pending relicense applications. In Hydroelectric Relicensing Regulations Under the Federal Power Act (54 FR 23,756; FERC Stats. and Regs., Regs. Preambles 1986–1990 30,854 at p. 31,437), the Commission declined to forbid all license transfers during the last five years of an existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing (id. at p. 31,438 n. 318). The transfer would lead to the substitution of the transferee for the transferor as the applicant in the relicensing proceedings for Projects Nos. 2666 and 2721.

Bangor proposed to decommission the Orono Project No. 2710 (which is operating under an annual license) as part of its proposal to build the downstream Basin Mills Project No. 10981. However, by order issued April 20, 1998, the Commission denied Bangor's application for license for Project No. 10981.[1] Bangor subsequently requested rehearing of the denial and now asks that, as of the effective date of this transfer, Penobscot be substituted for it in the rehearing proceeding and as applicant for the Basin Mills Project No. 10981.

k. 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, .211, .214. In determining the appropriate action to take, the commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service 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. 99–2593 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

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[1] 83 FERC ¶ 61,039.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 460]

City of Tacoma, Washington; Notice of Teleconference on Fish and Wildlife Issues in the Southern Lower North Fork Region

January 29, 1999.

On July 30, 1998, the Commission issued an order (84 FERC ¶ 61,107) relicensing the Cushman Hydroelectric Project No. 460, located on the North Fork Skokomish River in Mason County, Washington. The FERC staff, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and Washington Department of Ecology will conduct a teleconference at 1:00 pm EDT, on February 16, 1999, to discuss with federal and state fish and wildlife agencies the wildlife measures proposed for the Southern Lower North Fork area of the Cushman Project. The agencies made a section 10(j) recommendation to acquire about 2000 acres of land in the area. The purpose of the conference is to explore alternatives that could adequately address the agencies' and the Commission's concerns regarding this measure.

Interested parties that want to observe the meeting may do so by calling (800) 545–4387 and informing the FERC operator that they want to be part of the Cushman Project conference call. We will start accepting conference calls at 12:45 pm EDT for the 1:00 pm EDT meeting. If you have any questions regarding this notice, please contact John McEachern at (202) 219–3056 or e-mail john.mceachern@ferc.fed.us.

David P. Boergers,

Secretary.

[FR Doc. 99–2592 Filed 2–3–99; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, February 2, 1999, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider matters relating to the Corporation's corporate, resolution, and supervisory activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: February 1, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–2712 Filed 2–1–99; 5:12 pm]

BILLING CODE 6714–01–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 February 18, 1999.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Brian Douglas Campbell, Baton Rouge, Louisiana; to retain voting shares of Central Louisiana Capital Corporation, Vidalia, Louisiana; and thereby indirectly retain voting shares of Louisiana Central Bank, Ferriday, Louisiana, Louisiana Delta Bank, Lake Providence, Louisiana, and Community Credit Center, Lake Providence, Louisiana.

Board of Governors of the Federal Reserve System, January 29, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–2586 Filed 2–3–99; 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 March 1, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Century South Banks, Inc., Dahlonega, Georgia; to merge with Independent Bancorp, Inc., Oxford, Alabama, and thereby indirectly acquire Independent Bank of Oxford, Oxford, Alabama.

2. Manufacturers Bankshares, Inc., Tampa, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Manufacturers Bank of Florida, Tampa, Florida.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Ameri-National Corporation, Overland Park, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Horizon National Bank, Leawood, Kansas, a *de novo* bank.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200

North Pearl Street, Dallas, Texas 75201–2272:

1. Central Texas Bankshare Holdings, Inc., Columbus, Texas, and Colorado County Investment Holdings, Inc., Wilmington, Delaware; to acquire 35 percent of the voting shares of Hill Bancshares Holdings, Inc., Weimar, Texas, and thereby indirectly acquire Hill Bank & Trust Company, Weimar, Texas.

Board of Governors of the Federal Reserve System, January 29, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–2588 Filed 2–3–99; 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 March 1, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303–2713:

1. Cumberland Bancorp, Inc., Carthage, Tennessee; to engage *de novo* through its subsidiary, The Murray Bank, Murray, Kentucky (in organization), in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, January 29, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–2587 Filed 2–3–99; 8:45 am]

BILLING CODE 6210–01–F

OFFICE OF GOVERNMENT ETHICS

Proposed Collection; Comment Request: Proposed Slightly Revised OGE Form 201 Ethics Act Access Form

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: After this first round notice and public comment period, OGE plans to submit a slightly modified OGE Form 201, which is used by persons for requesting access to executive branch public financial disclosure reports and other covered records, to the Office of Management and Budget (OMB) for three-year approval under the Paperwork Reduction Act. This modified form will replace the existing one.

DATES: Comments by the agencies and the public on this proposal are invited and should be received by April 20, 1999.

ADDRESSES: Comments should be sent to William E. Gressman, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917. Comments may also be sent electronically to OGE's Internet E-mail address at usoge@oge.gov. For E-mail messages, the subject line should include the following reference—''Paperwork comment on the proposed slightly revised OGE Form 201.''

FOR FURTHER INFORMATION CONTACT: Mr. Gressman at the Office of Government Ethics; telephone: 202–208–8000, ext. 1110; FAX: 202–208–8037. A copy of the proposed slightly revised OGE Form 201 may be obtained, without charge, by contacting Mr. Gressman.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is planning to submit, after this notice and comment period (with any modifications that may appear warranted), a proposed slightly modified OGE Form 201 ''Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Report or Other Covered Record'' for three-year approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Once finally approved by OMB and adopted by OGE, the modified version of this OGE form will replace the existing version (whose paperwork clearance is scheduled to expire at the end of next June).

The Office of Government Ethics, as the supervising ethics office for the executive branch of the Federal Government under the Ethics in Government Act (the Ethics Act), 5 U.S.C. appendix, is planning to modify and update the existing access form. That form, the OGE Form 201 (OMB control # 3209–0002), collects information from, and provides certain information to, persons who seek access to SF 278 reports and other covered records. The form reflects the requirements of the Ethics Act and OGE's implementing regulations that must be met by a person before access can be granted. These requirements relate to information about the identity of the requester, as well as any other person on whose behalf a record is sought, and a notification of prohibited uses of SF 278 reports. See section 105(b) and (c) of the Ethics Act, 5 U.S.C. appendix, section 105(b) and (c), and 5 CFR 2634.603(c) and (f). For many years, OGE has disseminated to executive branch departments and agencies a locally reproducible uniform form to serve as the statutorily required written application to inspect or receive copies of SF 278 reports and other covered records. Departments and agencies are encouraged to utilize the OGE Form 201, but they can, if they so choose, continue to use or develop their own forms. See the discussion below.

This proposed slightly modified version of the OGE Form 201 will add express mention (in part III of the form) in the reference to those Ethics Act-qualified blind trust and diversified trust materials that are publicly available to any trust dissolution report (and the list of trust assets at that time) and the qualification that any trust instrument provisions relating to testamentary disposition of trust assets are not publicly available. See 5 CFR 2634.408(a)(1)(i), (a)(3) and (d). Also, OGE proposes to clarify somewhat the wording regarding the sixth numbered routine use under the Privacy Act statement on the reverse side of the form. The modified wording would more closely track the wording of the underlying routine use (h) in the OGE/GOVT–1 executive branchwide system of records. See 55 FR 6327–6331 (February 22, 1990). Further, in the form's public burden statement, OGE proposes to drop the reference to OMB as a further point of contact for information collection comments on the OGE Form 201. Pursuant to current procedures, OGE will be indicated from now on as the sole contact point for

such comments for the form, on which OGE will coordinate with OMB if necessary.

Moreover, as noted on the mark-up copy of the form as proposed to be revised, OGE will adjust the referenced civil monetary penalty at the bottom of the first page for prohibited uses of an SF 278 to which access has been gained. The penalty, under section 104(a) of the Ethics Act, 5 U.S.C. appendix, section 104(a), will be raised from $10,000 to $11,000 once OGE and the Department of Justice issue their respective inflation adjustment rulemakings under the 1996 Debt Collection Improvement Act revisions to the 1990 Federal Civil Penalties Inflation Adjustment Act. See 28 U.S.C. 2461 note. The OGE rulemaking will, in pertinent part, revise 5 CFR 2634.703 of the executive branch financial disclosure regulation. The Office of Government Ethics will request permission from OMB to adjust the OGE Form 201 reference once that adjustment takes effect without further paperwork clearance, even if the adjustment occurs after reclearance of the slightly revised form (with notice to OMB at that time). Moreover, any periodic future adjustments to that civil monetary penalty, pursuant to further rulemakings by OGE and the Justice Department under the inflation adjustment laws, will also be reflected in future editions of the form.

Finally, OGE would also make a couple of minor stylistic changes to the form and show the 1999 edition date. The mark-up copy of the OGE Form 201 as proposed for slight revision, which is available from OGE (see the **FOR FURTHER INFORMATION CONTACT** section above), shows all the changes that would be made.

In light of OGE's experience over the past three years (1996–1998, with a total of 517 non-Federal access requests received), the estimate of the average number of access forms expected to be filed annually at OGE by members of the public (primarily by news media, public interest groups and private citizens) is proposed to be adjusted down from the current estimate of 275 to 172 (not counting access requests by other Federal agencies or Federal employees). The estimated average amount of time to complete the form, including review of the instructions, remains at ten minutes. Thus, the overall estimated annual public burden for the OGE Form 201 for forms filed at the Office of Government Ethics will decrease from 46 hours in the current OMB paperwork inventory listing (275 forms X 10 minutes per form—number rounded off) to 29 hours (172 forms X 10 minutes per form—number rounded off). Moreover, although OGE no longer asks executive branch departments and agencies on the annual ethics program questionnaire for their numbers of access requests, OGE estimates that the annual branchwide total is probably around 1,500 as in years past.

The Office of Government Ethics expects that the slightly revised form should be ready, after OMB clearance, for dissemination to executive branch departments and agencies next summer. The OGE Form 201 as revised will be made available free-of-charge to departments and agencies in paper form, on the ethics CD–ROM and on OGE's Internet Web site (Uniform Resource Locator address: http://www.usoge.gov). The Office of Government Ethics also will permit departments and agencies to photocopy or have copies printed of the form as well as to develop or utilize, on their own, electronic versions of the form, provided that they precisely duplicate the paper original to the extent possible. As noted above, agencies can also develop their own access forms, provided all the information required by the Ethics Act and OGE regulations is placed on the form, along with the appropriate Privacy Act and paperwork notices with any attendant clearances being obtained therefor.

Public comment is invited on each aspect of the proposed slightly modified OGE Form 201 as set forth in this notice, including specifically views on the need for and practical utility of this proposed modified collection of information, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology).

Comments received in response to this notice will be summarized for, and may be included with, the OGE request for OMB paperwork approval for this modified information collection. The comments will also become a matter of public record.

Approved: January 29, 1999.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 99–2639 Filed 2–3–99; 8:45 am]

BILLING CODE 6345–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

Mr. Thomas Philpot, R.N., B.S.N., Rush-Presbyterian-St. Luke's Medical Center and Northwestern University: Based on the report of an investigation conducted by Rush-Presbyterian-St. Luke's Medical Center (RPMC), a report of an inquiry conducted by Northwestern University, and information obtained by ORI during its oversight review, ORI finds that Mr. Philpot, former data manager for the National Surgical Adjuvant Breast and Bowel Project (NSABP) at RPMC and McNeal Cancer Center, formerly an NSABP affiliate of Northwestern University, engaged in scientific misconduct in clinical research supported by two National Cancer Institute (NCI), National Institutes of Health (NIH) cooperative agreements.

Specifically, Mr. Philpot intentionally falsified and/or fabricated follow-up data on seven separate reports related to three patients enrolled in NSABP clinical trials for breast cancer (B–09, B–12, and B–22). The falsified and/or fabricated data were submitted to the NSABP Biostatistical Center on NSABP reporting forms and were recorded in the NSABP research records maintained at the clinical sites.

ORI has implemented the following administrative actions for the three (3) year period beginning January 19, 1999:

(1) Mr. Philpot is prohibited from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) any institution that submits an application for PHS support for a research project on which Mr. Philpot's participation is proposed or which uses him in any capacity on PHS supported research, or that submits a report of PHS-funded research in which he is involved, must concurrently submit a plan for supervision of his duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Mr. Philpot's research contribution. The institution also must submit a copy of the supervisory plan to ORI.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 99–2616 Filed 2–3–99; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99024]

Prevention of Complications in Hemophilia; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for Prevention of Complications in Hemophilia. This program addresses the ''Healthy People 2000'' priority area of Diabetes and Chronic Disabling Conditions. The purpose of this program is to assist eligible Hemophilia Treatment Centers (HTC) in determining the prospective incidence and risk factors of central venous access device (CVAD) infections in patients with Hemophilia and to assist in the design of interventions to prevent this complication in the future.

B. Eligible Applicants

Assistance will be provided only to comprehensive hemophilia treatment centers (HTCs), defined as public or private, nonprofit entities that provide directly or through contract: (1) regional services to support hemophilia comprehensive treatment centers or (2) diagnostic and treatment services to persons with Hemophilia and other congenital blood disorders. This definition of HTCs is currently used by the Health Resources Services Administration (HRSA) to fund a grant program.

Because of the low prevalence and degree of specialization required in the treatment of hemophilia, competition is limited to hemophilia treatment centers (HTCs) that routinely provide comprehensive health care to two thirds of persons with hemophilia in the United States. HTCs are the only health care facilities administering to the number of persons with hemophilia required for this study.

Note: Pub. L. 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately $500,000 is available in FY 1999 to fund approximately two awards. It is expected that the average award will be $250,000, ranging from $250,000 to $500,000. It is expected that the awards will begin on or about July 15, 1999, and will be made for a 12-month budget period within a project period of up to two years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. below, and CDC will be responsible for conducting activities under 2. below:

1. Recipient Activities

a. Develop standardized study protocols, data collection instruments, and questionnaires to be used across collaborating sites.

b. Train study coordinators and medical personnel in methods of data collection and patient assessment in the use of standard data abstraction instruments, in techniques of reviewing medical records, and in other methods of data collection as appropriate and provided for in the study protocols. It will be the responsibility of the recipient to ensure uniform training of study personnel at all data collection sites and to ensure that the data is collected in a uniform manner at all locations.

c. Develop appropriate management and evaluation systems to ensure that study personnel use data collection and interview instruments according to standard study protocols.

d. Collect and edit all data from all sites.

e. Develop clinical specimen laboratory testing for successful completion of the research.

f. Publish the results of the study.

2. CDC Activities

a. Provide consultation, scientific and technical assistance in planning and implementing the study protocol, as requested. This assistance may include the development of study protocols, data abstraction instruments, interview quesstionnaires, consent forms, support in statistical and epidemiologic methods to conduct data analysis, development of the clinical laboratory specimen testing, and in publication of the results.

b. Assist in the development of a research protocol for Institutional Review Board (IRB) review by all institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

c. Collaborate in the planning, coordination, and facilitation of initial and periodic meetings with recipients to exchange operational experiences.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

Noncompeting Continuation Applications

For noncompeting continuation applications submitted within the project period need only include:

1. A brief progress report that describes the accomplishments of the previous budget period.

2. Any new or significantly revised items or information (objectives, scope of activities, operational methods, evaluation), that is, not included in year 01 or subsequent continuation applications.

3. An annual budget and justification. Existing budget items that are unchanged from the previous budget period do not need rejustification. Simply list the items in the budget and indicate that they are continuation items.

F. Submission and Deadline

Application

Submit the original and two copies of PHS–5161 (OMB Number 0937–0189). Forms are in the application kit. On or before May 3, 1999, submit the application to: Locke Thompson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99024, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Mailstop E–18, Atlanta, Georgia 30341.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date.

2. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered

postmarks shall not be acceptable as proof of timely mailing).

Late applications: Applications that do not meet the criteria in (a) or (b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC (Total 100 points).

1. Background and Need

The extent to which the applicant presents data that central venous access devices (CVADs) are utilized in persons with hemophilia and risk factors identified in the literature. The extent to which the applicant compares the experience in persons with hemophilia with other persons with CVADs and the complications they experience, especially infection. The extent to which the applicant discusses the long-term consequences of CVAD and blood stream infections. Does the applicant propose an experimental rationale that would explain why persons with hemophilia would be more susceptible to develop infections with CVADs, especially those with inhibitors? (10 points)

2. Goals and Objectives

The extent to which the applicant's proposed goals and objectives meet the required activities specified under the ''Recipient Activities'' section of this announcement, and that are measurable, specific, time-phased, and realistic. (15 points)

3. Capacity (Total 30 Points)

a. The capacity of the applicant to accrue 380 persons with CVADs currently in place or placed during the first year of the study. Each participating HTC must be able to enroll a minimum of 20–30 patients who meet the above criteria. The capacity to accrue patients to this study will be measured by (1) the number of patients who are seen annually at each HTC, and (2) the average number of CVADs placed in each HTC 3 years prior to the start of the study. (15 points)

b. Qualifications of proposed staff to meet stated objectives and goals, and the availability of facilities to be used during the project period. The applicant should provide evidence that there is experience in collaborating in multi-site studies. (15 points)

4. Methods and Activities (Total 30 Points)

a. The quality of the applicant's plan for conducting program activities and the extent to which the study design proposed is: (1) appropriate to accomplish stated goals and objectives; (2) acceptable to the needs of the patient population (e.g., likely to produce compliance); (3) feasible within programmatic and fiscal restrictions. (20 points)

b. The recipient should demonstrate a basic knowledge and describe how they will implement their protocol at various HTCs; (1) develop progress report forms: (2) and collect and edit the data. (10 points)

5. Program Management and Evaluation

The recipient should demonstrate the ability to design information management systems to ensure that valid and reliable data are collected to achieve the proposed goals and objectives. The applicant should present specific plans to evaluate data periodically, quality assurance measures to be used and operations will be changed based on the above information. The recipient should demonstrate adequate biostatistical support for protocol design, study implementation and data management. The degree to which the applicant has met the CRC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (a) the proposed plan for the inclusion of both sexes, racial and ethnic minority populations for appropriate representation, (b) the proposed justification when representation is limited or absent, (c) a statement as to whether the design of the study is adequate to measure differences when warranted, and (d) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (15 points)

6. Budget

The extent to which the budget is reasonable and consistent with the intended use of the cooperative agreement funds. (Not Scored)

7. Human Subjects Requirements

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects? (not scored)

_____Yes _____No

Comments: _____

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. Progress reports (annual);
2. Financial status report, no more than 90 days after the end of the budget period; and
3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Locke Thompson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Mailstop E–18, Atlanta, Georgia 30341.

The following additional requirements are applicable to this program. For the complete description of each, see Attachment I, in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–8 PHS Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions
AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number (CFDA)

This program is authorized under the Public Health Service Act Sections 301(a) [42 U.S.C. 241(a)], 317(k)(1) [42 U.S.C. 247b(k)(1)], 317(k)(2) [42 U.S.C. 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have any questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Locke Thompson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99024, Centers for Disease Control and Prevention (CDC), 2929 Brandywine Road, Mailstop E–18, Atlanta, Georgia 30341, telephone (404) 842–6595, Email address 1xt1.@cdc.gov.

See also the CDC home page on the Internet: *http://www.cdc.gov*

For program technical assistance, contact Lisa Richardson, MD, MPH, Hematologic Diseases Branch, Division of AIDS, STD, and TB Laboratory Research, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–64. Atlanta, Georgia 30333, telephone (404) 639–4025, e-mail address 1fr8@cdc.gov.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–2635 Filed 2–3–99; 8:45am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Grants to States for Access and Visitation—Program Data.

OMB No.: New.

Description: As required by Paragraphs 303.109(a), (b) and (c) of the PRWROA Act, States are directed to monitor and evaluate their access and visitation programs using a set of criteria aimed at providing detailed descriptions of each funded program. To that end, States will use collection techniques available to the Administration for Children and Families and the Office of Child Support Enforcement.

Specifically, paragraph (a) requires States to monitor all access and visitation programs to ensure that services funded under these programs are: (1) authorized under section 469B(a) of the Act and (2) efficiently and effectively provided while complying with reporting and evaluation requirements, as set forth in paragraphs 303.109(b) and 303.109(c). Paragraph 303.109(b) allows State programs funded by section 469B of the act to be evaluated using data gathered to measure the effectiveness of program operations. States also are required to assist in the evaluation of programs deemed significant or promising by the Department, as directed by program memorandum. Paragraph 303–109(c) requires that States provide a detailed description of each funded program by including such information as: service providers and administrators, service area, population serviced, program goals, application or referral process, referral agencies, nature of the program, activities provided, and length and features of a ''completed'' program. Other required information from the program also includes: number of applicants or referrals for each program, the number of program participants in the aggregate and by eligible activity, and the total number of graduates in the aggregate and by eligible activities (e.g., mediation, education, etc.).

This information is proposed in order to assess: (1) the demand for the program and effectiveness of outreach and ability of the program to meet demand, (2) the service population served and scope and size of the program, and (3) whether such recipients are completing standard program requirements. States would be required to report this information annually, collected at a date and in a form as the Secretary may prescribe in program instructions from time to time.

The Office of Child Support Enforcement will use information gathered from the data collection instrument to report on the programs to the Congress in its annual report. States may use this information to assess demand for any utilization of their programs when considering funding options and make appropriate program changes from year to year. Funded agencies will use the information to assess effectiveness of project administration and design. Public interest groups will use the information to keep apprised of services provided to constituencies.

Respondents: State, Local or Tribal Government.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Access and Visitation	216	1	24	5,184

Estimated Total Annual Burden Hours: 5,184.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW, Washington, DC 20503, Attn: Ms. Lori Schack.

Dated: January 29, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–2638 Filed 2–3–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Proposed Program Priorities—ACF/ACYF/RHYP 99–1]

Runaway and Homeless Youth Program: Fiscal Year (FY) 1999; Proposed Program Priorities

AGENCY: Family and Youth Services Bureau (FYSB), Administration on Children, Youth, and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Notice of request for public comments on proposed FY 1999 Runaway and Homeless Youth (RHY) Program Priorities.

The Runaway and Homeless Youth Act requires the Secretary to publish annually, for public comment, a proposed plan specifying priorities the Department will follow in awarding grants under the Act. The public is urged to provide comments in response to this notice. Suggestions and recommendations will be taken into consideration in the development of final priorities.

The notice of the actual solicitation for grant applications will be published later during FY 1999 in the **Federal Register**. No applications for funding should be submitted at this time.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before March 22, 1999.

ADDRESSES: Written comments may be mailed or submitted in electronic form to: Karen E. Cook, Youth Development Program Specialist, Family and Youth Services Bureau, 330 C Street S.W., Washington, DC 20447; (202) 205–8087. E-mail: Kacook@acf.dhhs.gov

Introduction: The Family and Youth Services Bureau of the Administration on Children, Youth and Families awards funds to public and private agencies to provide services to youth in at-risk situations.

The Runaway and Homeless Youth Basic Center Grant Program (BCP), provides financial assistance to local agencies to develop and strengthen services to meet the immediate needs (e.g., outreach, temporary shelter, counseling, and aftercare services) of runaway and homeless youth and their families.

The Transitional Living Program for Older Homeless Youth (TLP), supports local agencies which provide long-term shelter (up to 18 months), life-skill training and support services to homeless youth to assist them in making a smooth transition to self-sufficiency and to prevent long-term dependency on social services.

The Street Outreach Program (SOP), provides street-based education and outreach, counseling information, referral services and offers emergency shelter to young people who have been, or who are at risk of being, sexually abused or exploited, with the goal of helping them leave the streets.

Central to all FYSB programs and activities is a priority that services are delivered through a comprehensive youth development approach. A developmental perspective views adolescence as the passage from the dependence of the child to the independence and self-sufficiency of the adult. The various emotional, intellectual, social and physical changes during this passage are natural, healthy responses to the challenges and opportunities of growing up.

The tasks of youth services providers are seen, thus, not as correcting the problems of troubled youth, but rather as providing for the successive developmental needs of maturing individuals: the psychological need to develop a clear self-identity; the sociological need to be an effective and contributing member of the community; the economic need to prepare for and enter into a career; and the familial needs for sharing, for trusting, for giving and receiving love and commitment. This developmental approach is fundamental to all FYSB programs and activities.

Financial assistance for programs and support efforts discussed below is contingent upon the availability of funds.

I. Proposed Grant Funding in FY 1999

A. Basic Center

Approximately 65 percent of the Basic Center grants awarded in FY 1999 will be non-competing continuation grants and approximately 35 percent will be competitive new awards.

Eligible applicants for new awards are current grantees with project periods ending in FY 1999 and otherwise eligible applicants who are not current grantees. The applications will be reviewed by State, and awards will be made during the last quarter of FY 1999 (July—September 1999). FYSB is considering making awards for five-year project periods and encourages public comments on this approach.

B. Transitional Living Program

All FY 1999 funds for Transitional Living Programs will be awarded in the form of continuation grants. There will be a competitive solicitation for new-start TLP applications in FY 1999.

However, funds for new start applications are expected to be awarded if available in FY 2000. FYSB is considering making awards for five-year project periods and encourages public comments on this approach.

C. Street Outreach Program

All FY 1999 funds for Street Outreach Programs will be awarded in the form of continuation grants. FYSB is considering making awards for five-year project periods and encourages public comments on this approach.

D. Training and Technical Assistance

In FY 1999, a national competition will be held to provide training and technical assistance services to runaway and homeless youth service providers. These services are currently provided via cooperative agreements with ten organizations across the country. FYSB is considering a range of approaches to meet the needs of programs and encourages public comment.

E. National Communications System

In the second quarter of FY 1999, FYSB expects to award a new five-year grant to the successful applicant to run the National Communications System to provide information, referral services, crisis intervention and communication services to runaway and homeless youth and their families. Applications for this grant were solicited in the FY 1998 Program Announcement for the Runaway and Homeless Youth Program.

II. Proposed Contracts in FY 1999

A. National Clearinghouse on Runaway and Homeless Youth

In FY 1997, the Family and Youth Services Bureau awarded a five-year contract to support a National Clearinghouse on Youth and Families (NCFY). The purpose of the Clearinghouse is to disseminate information to professionals and agencies involved in youth development efforts and/or the delivery of direct services to runaway, homeless and at-risk youth. The Clearinghouse collects, maintains and disseminates reports and other materials, identifies areas in which new or additional information is needed, and develops documents and materials relevant to FYSB's mission and the needs of the field. It is expected that this contract will receive continuation funding in FY 1999.

B. Runaway and Homeless Youth Management Information System (RHYMIS)

In FY 1997, the Family and Youth Services Bureau awarded a three-year contract for continued development and implementation of the Runaway and Homeless Youth Management Information System (RHYMIS). RHYMIS is used by grantees to report statistical information on client characteristics and services provided. It is expected that this contract will receive continuation funding in FY 1999.

C. Monitoring Support for FYSB Programs

A comprehensive monitoring instrument and site visit protocols, including a peer-review component, are used for monitoring runaway and homeless youth programs. In FY 1997, the Family and Youth Services Bureau awarded a three-year contract to provide logistical support for peer review

monitoring. It is expected that this contract will receive continuation funding in FY 1999.

III. Proposed Research and Demonstration Activities in FY 1999

Section 315 of the Act authorizes the Department to award funds to States, localities, and private entities to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway and homeless youth. These activities identify emerging issues and develop and test models which address such issues.

During FY 1999, the Family and Youth Services Bureau will continue to:

Support the nine Youth Development State Collaboration grants which were awarded in FY 1998 to facilitate the use of a youth development approach by States as they address the needs of adolescents at the State and local levels;

Support a youth development approach to the provision of services, both from theoretical and practical perspectives;

Pursue the development of youth development performance based indicators and outcome measures as a method of evaluating the effectiveness of youth services; and

Collaborate with Federal government agencies, State governments and local community based youth services organizations.

References

(*Catalog of Federal Domestic Assistance* Number 93.623, Runaway and Homeless Youth Program; Number 93.550, Transitional Living Program for Homeless Youth; and Number 93.623, Training and Technical Assistance Grants)

Dated: January 25, 1999.

Patricia Montoya,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 99–2612 Filed 2–3–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Medical Child Support Working Group

AGENCY: Administration for Children and Families, DHHS.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of the first meeting of the Medical Child Support Working Group (MCSWG). The agenda for this first meeting includes swearing-in and orientation of members, program briefings, discussions, and business related to the operation of the MCSWG.

DATES AND TIME: March 3, 1999, 3:00 PM—6:00 PM, the Opening and Swearing-in Ceremony; March 4, 9:00 AM—3:00 PM, and March 5, 1999, 9:00 AM—Noon, for introductions and orientation for this new work group, program briefings, discussions, and business related to the operation of the MCSWG.

PLACE: Snow Room, room 5051, fifth floor, Wilbur Cohen Bldg., 300 Independence Ave., SW, Washington, DC for 3/3/99; room 800, eighth floor, Hubert H. Humphrey Bldg., 200 Independence Ave, SW, Washington, DC, for 3/4/99 and 3/5/99.

PURPOSE: The purpose of this first of several meetings of the MCSWG will be orientation of members regarding their roles and duties, program briefings, and initial discussion of key issues. In addition, the members will discuss business related to the operation of the MCSWG.

SUPPLEMENTARY INFORMATION: The MCSWG was authorized under section 401 of the Child Support Performance and Incentive Act of 1998 (PL 105–200).

The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State Child Support Enforcement agencies. The membership of the MCSWG was jointly appointed by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS). The membership includes representatives of: (1) DOL; (2) DHHS; (3) State Child Support Enforcement Directors; (4) State Medicaid Directors; (5) employers, including owners of small businesses, and their trade and industry representatives and certified human resource and payroll professionals; (6) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)); (7) children potentially eligible for medical support, such as child advocacy organizations; (8) State medical child support organizations; and (9) organizations representing State child support programs.

The MCSWG is to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address the impediments identified by the MCSWG, including: (1) recommendations based upon assessments of the form and content of the National Medical Support Notice, as issued under interim regulations; (2) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677; (3) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs for child support, Medicaid and the Child Health Insurance Program (CHIP); (4) appropriate measures to improve the availability of alternate types of medical support that are aside from health care coverage offered through the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, co-payments, deductibles, or payments for service not covered under a child's existing health coverage; (5) recommendations as to whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act; and (6) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the MCSWG deems necessary.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first served basis. Over the course of the MCSWG's tenure, future meetings will be dedicated to public input. Members of the public who wish to present oral statements should contact Samara Weinstein by telephone, fax machine, or mail as shown below and as soon as possible, at least four days before the meeting. The Chair of the MCSWG will reserve time for presentations by persons requesting to speak. Oral statements will be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which the requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the MCSWG staff office at least five business days before the meeting for distribution to the MCSWG membership and inclusion in the public record. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact

MCSWG staff at the address below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Samara Weinstein, Executive Director, Medical Child Support Working Group, Office of Child Support Enforcement, Fourth Floor East, 370 L'Enfant Promenade, SW, Washington, DC 20447; telephone 202–401–6953; fax number 202–401–5559; email sweinstein@acf.dhhs.gov

Dated: January 28, 1999.

David Gray Ross,

Commissioner, Office of Child Support Enforcement.

[FR Doc. 99–2664 Filed 2–3–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0123]

Agency Information Collection Activities: Proposed Collection; Comment Request; Food Labeling; Notification Procedures for Statements on Dietary Supplements

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 extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the regulation requiring manufacturers, packers, and distributors of dietary supplements to notify FDA that they are marketing a dietary supplement product that bears on its label or in its labeling a statement provided for in the Federal Food, Drug, and Cosmetic Act (the act).

DATES: Submit written comments on the collection of information by April 5, 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: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

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 extension 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 set forth 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.

Food Labeling; Notification Procedures for Statements on Dietary Supplements—21 CFR 101.93 (OMB Control Number 0910–0331—Extension)

Description: Section 403(r)(6) of the act (21 U.S.C. 343(r)(6)) requires that the agency be notified by manufacturers, packers, and distributors of dietary supplements that they are marketing a dietary supplement product that bears on its label or in its labeling a statement provided for in section 403(r)(6) of the act. Section 403(r)(6) of the act requires that the agency be notified, with a submission about such statements, no later than 30 days after the first marketing of the dietary supplement. Information that is required in the submission includes: (1) The name and address of the manufacturer, packer, or distributor of the dietary supplement product; (2) the text of the statement that is being made; (3) the name of the dietary ingredient or supplement that is the subject of the statement; (4) the name of the dietary supplement (including the brand name); and (5) a signature of a responsible individual who can certify the accuracy of the information presented.

The agency established § 101.93 (21 CFR 101.93) as the procedural regulation for this program. Section 101.93 provides details of the procedures associated with the submission and identifies the information that must be included in order to meet the requirements of section 403 of the act.

Description of Respondents: Businesses or other for-profit organizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
101.93	700	1	700	0.5 to 1	350 to 700

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The agency believes that there will be minimal burden on the industry to generate information to meet the requirements of section 403 of the act in submitting information regarding section 403(r)(6) of the act statements on

labels or labeling of dietary supplements. The agency is requesting only information that is immediately available to the manufacturer, packer, or distributor of the dietary supplement that bears such a statement on its label or in its labeling. This estimate is based on the average number of notification submissions received by the agency in the last 3 years.

Dated: January 29, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–2688 Filed 2–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0022]

Agency Information Collection Activities; Announcement of OMB Approval; Hearing Aid Devices: Professional and Patient Package Labeling and Conditions for Sale

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Hearing Aid Devices: Professional and Patient Package Labeling and Conditions for Sale'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 26, 1998 (63 FR 57127), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0171. The approval expires on December 31, 1999. Copies of this document are available on the Internet at ''http://www.fda.gov/ohrms/dockets''.

Dated: January 27, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–2685 Filed 2–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0266]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicaid Disproportionate Share Hospital Payments—Institutions for Mental Disease; *Form No.:* HCFA–R–0266 (OMB# 0938–0746); *Use:* This PRA package announces the Federal share of disproportionate share hospital (DSH) allotments for Federal fiscal years (FFYs) 1998 through 2002. It also describes the methodology for calculating the Federal share DSH allotments for FFY 2003 and thereafter, and announces the FFY 1998 and FFY 1999 limitations on aggregate DSH payments States may make to institutions for mental disease (IMD) and other mental health facilities.; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 54; *Total Annual Responses:* 54; *Total Annual Hours:* 2,160.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 22, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–2650 Filed 2–3–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–257 & HCFA–R–71]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information

technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Extension of a currently approved collection;

Title of Information Collection: Medicare+Choice Disenrollment Form to original Medicare;

Form Nos.: HCFA–R–257 (OMB# 0938–0741);

Use: The primary purpose of the form is to receive and process the beneficiary's request for disenrollment from a Medicare+Choice plan and to return to original (fee-for-service) Medicare. The secondary purpose of the new form is to obtain the reason for the disenrollment, for analysis and reporting;

Frequency: On occasion;

Affected Public: Individuals or Households, Business or other for-profit, Not-for-profit institutions, and Federal Government;

Number of Respondents: 60,000;

Total Annual Responses: 60,000;

Total Annual Hours: 3,960.

(2) *Type of Information Collection Request:* Extension of a currently approved collection;

Title of Information Collection: Information Collection Requirements in HSQ–108F Assumption of Responsibilities and Supporting Regulations in 42 CFR 412.44, 412.46, 431.630, 466.71, 466.73, 466.74, and 466.78;

Form Nos.: HCFA–R–71 (OMB# 0938–0445);

Use: The purpose of this collection is to create the Utilization and Quality Control Peer Review Organization (PRO) program which replaces the Professional Standards Review Organization (PSRO) program and streamlines peer review activities. This rule outlines the review functions to be performed by the PRO and outlines the relationships among PROs, providers, practitioners, beneficiaries, fiscal intermediaries, and carriers;

Frequency: Other, as needed;

Affected Public: Business or other for-profit;

Number of Respondents: 6,471;

Total Annual Responses: 6,418;

Total Annual Hours: 46,834.

To request copies of the proposed paperwork collections referenced above, E-mail your request, including your address, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: January 13, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–2646 Filed 2–3–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1500]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 C.F.R., Part 1320. The HCFA–1500 is used to determine proper payment for certain Medicare services rendered to Medicare beneficiaries. Without this information, HCFA would not be able to obtain the information necessary to reimburse providers. The Agency cannot reasonably comply with the normal clearance procedures because public harm is likely to result due to the possibility of providers not rendering services to Medicare beneficiaries due to the possibility of non-payment.

HCFA is requesting OMB review and approval of this collection within eleven working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within ten working days. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Medicare/Medicaid Health Insurance Common Claim Form and Instructions, and Supporting Regulations in 42 CFR 414.40, 424.32 and 424.44;

Form No.: HCFA–1500 (OMB# 0938–0008);

Use: This form and instructions are standardized for use in the Medicare/Medicaid programs to apply for reimbursement for covered services. HCFA does not require exclusive use of this form for Medicaid. 42 CFR 414.40, 424.32 and 424.44 are regulations underlying the use of the form HCFA–1500 and the information captured on the form HCFA–1500, including the use of diagnostic and procedural coding systems. HCFA solicits comments on any and all aspects of the HCFA–1500, and the use of diagnostic and procedural coding systems: HCFA currently uses the most current version of the International Code of Diagnosis-Volume 9 and Common Procedural Terminology/HCFA Common Procedure Coding System;

Frequency: On occasion;

Affected Public: Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government;

Number of Respondents: 695,168,330;

Total Annual Responses: 695,168,330;

Total Annual Hours: 44,100,662.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, to Paperwork@hcfa.gov, or call

the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, within ten working days:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, HCFA Desk Officer.

Dated: January 22, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–2649 Filed 2–3–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–0001–N]

Medicare Program; Year 2000 Readiness Letter

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

The Health Care Financing Administration (HCFA) recently mailed the following letter to over a million of its health care partners and provider related associations regarding the Y2K issue. The message is that HCFA will be ready to process and pay all acceptable claims by January 1, 2000 and that providers must take steps to ensure their own readiness in order to be paid promptly. Further, the Y2K problem has implications for patient care. Providers should take steps to assure that beneficiaries receive the same quality of care that is provided to them today. The letter includes a checklist that providers can use as a tool to assess their Y2K readiness.

Medicare providers were to begin submitting claims with 8-digit date formats no later than January 1, 1999. However, it was recognized that many providers needed additional time to modify and test their own billing systems and, therefore, claims without 8-digit date formats would continue to be accepted until further notice by HCFA. On January 13, 1999, we notified Medicare contractors that, beginning April 5, 1999, claims will be returned to providers if they are not submitted in the Y2K format. To assist providers with Y2K readiness efforts, Medicare contractors offer free or minimal cost Y2K compliant billing software. Changing formats and using appropriately modified billing software are just two of the important steps that providers must take to assure that they are ready for the Year 2000.

The letter to health care partners is part of an extensive outreach effort being conducted by HCFA to promote Y2K self-assessment and readiness among all providers engaged in delivering health care services to beneficiaries of Medicare, Medicaid and the Children's Health Insurance Programs. HCFA has assumed a lead role in addressing Y2K readiness in the health care sector and holds regular meetings and discussions with a variety of industry groups. HCFA has strongly encouraged health care industry associations to accelerate efforts to assess the readiness of their provider members and to foster remediation initiatives.

In addition to this letter to providers and the resource information on its web site, www.hcfa.gov, HCFA has established a Y2K Speakers Bureau and is prepared to make speakers available to health care provider organizations that wish more detailed information about Y2K readiness and the implications of the millennium change for the industry.

FOR FURTHER INFORMATION CONTACT: Joe Broseker 410–786–1950 or Anita Shalit 202–690–7179.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 28, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

January 12, 1999.

Dear Health Care Partner:

You have probably heard about the Year 2000 computer problem, or the ''Y2K bug.'' As a health care practitioner or institution, you need to be aware of how Y2K affects you and your patients. We all must do our part so that Medicare and Medicaid beneficiaries continue to receive high quality care, and you or your institution continue to be paid accurately and promptly.

The Year 2000 problem appears simple on the surface. Many computers and devices use only six digits to record dates. They may read 01–01–00 as January 1, 1900, rather than January 1, 2000. Patient care services, systems, and devices that rely on dates, the age of the patient, and other calculations could be severely affected if corrections are not made in time.

Every business and organization that relies on computer systems or devices must address Y2K. For all of us in the health care industry, it is a patient care issue as well as a business and technical problem. As Administrator of the Health Care Financing Administration (HCFA), I need to make sure you are aware of some key points:

► HCFA will be ready to process acceptable claims. We have made substantial progress in correcting our own systems in recent months and, despite earlier concerns, we will be ready on time. We are confident that all Medicare claims processes will be ready and able to function come January 1, 2000, so that you can be paid promptly.

► You must also be ready if you wish to be paid promptly. We can process your claims only if your systems are also able to function in the Year 2000. It is URGENT that you act NOW so your systems will be ready. Otherwise, you may not be able to receive prompt payment from Medicare, Medicaid, and virtually any other payer.

► Your entire practice and facility must be ready. The Y2K problem could impact quality of care and patient safety. Patient management systems, clinical information systems, defibrillators and infusion pumps and other medical devices, even elevators and security systems all must be ready.

We want to help you prepare for the Year 2000. Enclosed is a ''Sample Provider Y2K Readiness Checklist'' which you can use to assess what you need to do. You can find additional useful information at our *www.hcfa.gov/Y2K* web site. Information on medical devices is available on the Food and Drug Administration's *www.fda.gov/cdrh/yr2000/year2000.html* web site.

We are confident that HCFA will be ready, but we are also making contingency plans so we can continue operations if unexpected problems occur. For those of you that rely on computer systems, we believe the greatest risk is that your systems will not be able to bill for services.

You need to make sure you will be ready for the Year 2000. And, like us, you need to make contingency plans for your critical operations. These should focus especially on assuring safety for your patients who are reliant on equipment and devices containing embedded chips. In addition, you need to assure your ability to generate bills and manage accounts receivables, and assure essential services and supplies are maintained. Your patients and your business may depend on this.

What can you do to avoid potential Y2K pitfalls? There are key steps you can take to become Y2K ready:

Become aware of how the Year 2000 can affect your systems. Anything that depends on a microchip or date entry could be affected. Don't forget to identify those organizations that you depend on or who depend on you. List everything and identify your mission critical items, namely, those you cannot live without.

Assess the readiness of everything on your list. You can do this by contacting your hardware or software vendors or accessing key information from various web sites. Don't forget your maintenance and service contractors. If your particular software program or form is not Y2K ready, you need to decide whether you should invest in an upgrade or replacement.

Update or replace systems, software programs, and devices you decide are critical for your business continuity.

Test your existing and newly purchased systems and software. Do not assume that a system or a program is Y2K ready just because someone said it is. Test to make sure. During this process, keep track of your test plans and outputs in case a problem surfaces later. If you are not already using compliant electronic claim formats, consider testing your electronic data interchanges (EDI) with one or more of your payers, including Medicare. This will ensure that your payer can accept your EDI transactions, especially claims. Medicare can now accept claims with eight digit date formats.

Develop business contingency (continuity) plans in the event something goes wrong. Focus on the things that would be most problematic for you and your patients.

The enclosed checklist may also be helpful. It is only meant to be a guide and should not be considered all-inclusive.

Medicare beneficiaries are counting on all of us to meet the Year 2000 challenge. We will be ready. Now you need to do your part to be sure that you will continue to be paid as beneficiaries are assured that they will continue to receive the health care they have come to depend on.

Sincerely,

Nancy-Ann Min DeParle

Enclosure

Enclosure

Sample Provider Y2K Readiness Checklist

Please note: This checklist is intended as a supplemental guide in helping you determine your Y2K readiness. Consider using this along with other diagnostic and reference tools you have obtained for this venture. The purpose of this checklist is to aid you in determining your Y2K readiness. This information is not intended to be all inclusive. The Health Care Financing Administration will not assume any responsibility for your Y2K compliance.

Item	Y2K ready	Not Y2K ready
Bank debit/credit card expiration dates.		
Banking interface.		
Building access cards.		
Claim forms and other forms.		
Clocks.		
Computer hardware (list).		
Computer software (list).		
Custom applications (list).		
Diagnostic equipment (list).		
Elevators.		
Fire alarm.		
Insurance/pharmacy coverage dates.		
Membership cards.		
Medical Devices (list).		
Monitoring equipment (list).		
Smoke alarm.		
Telephone system.		
Spreadsheets.		
Treatment equipment (list).		
Safety vaults.		

[FR Doc. 99–2632 Filed 2–3–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are Invited on

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

Proposed Project: Feasibility Study To Evaluate the Positive Activities Campaign (PAC)

(OMB No. 0930–0188, Revision) The Center for Substance Abuse Prevention is conducting a feasibility study of the Positive Activities Campaign (PAC), an initiative aimed at the general public to encourage adults to become more involved in positive, skill-building activities with youth. The ultimate goal of the initiative is to reduce substance abuse among young people.

To determine the likely effectiveness of the campaign, CSAP's feasibility study consists of a process evaluation and an outcomes evaluation. The

evaluation is assessing change in communities exposed to PAC, including change in adults' involvement with youth. Two treatment and two comparison communities have been selected for study. Data for the process evaluation are primarily from on-site interviews with key personnel in local youth-serving organizations (e.g, Boy Scouts, Boys and Girls Clubs); data for the outcomes evaluation are from baseline and 6-month followup telephone surveys of adults.

This revision to the currently approved information collection activities involves: (1) a third, 12-month followup telephone interview with the random sample of adults; and (2) because PAC is being expanded to serve civic membership organizations (e.g., Rotary Clubs, Lions Clubs, Kiwanis) application of the process evaluation activities with these groups, plus three telephone interviews with random samples of members of the civic organizations.

	Number of respondents	Responses/respondent	Burden/response	Total burden hrs.
Currently approved				1,350
Additional telephone interview	1,760	1	0.14	246
Interviews with local-level staff for process evaluation	140	2	1.5	420
Telephone interviews with members of civic organizations	1,760	3	.14	739
New Total				2,755

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: January 29, 1999.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 99–2662 Filed 2–3–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–08]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: March 8, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 28, 1999.

David S. Cristy,

Director, IRM Policy and Management Division.

Title of Proposal: Survey of Low-Income Housing Tax Credit (LIHTC) Developers and Owners.

Office: Policy and Development and Research.

OMB Approval Number: 2528–xxxx.

Description of the Need for the Information and Its Proposed Use: Survey is to better understand: types and characteristics of LIHTC developers/owners; factors important to developing affordable housing, post development performance and longer term plans for continued low-income use.

Form Number: None.

Respondents: Business or Other For-Profit and Not-for-Profit Institutions.

Frequency of Submission: One-Time Submission.

Reporting Burden:

Number of Respondents	×	Frequency of response	×	Hours per response	=	Burden hours
800		1		.53		427

Total Estimated Burden Hours: 427.
Status: New Collection.
Contact: Stacy Jordan, HUD, (202) 708–0426; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: January 28, 1999.

[FR Doc. 99–2667 Filed 2–3–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–09]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: March 8, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 28, 1999.

David S. Cristy,
Director, IRM Policy and Management Divsion.

Title of Proposal: Community Development Work Study Program.
Office: Policy Development and Research.
OMB Approval Number: 2528–0175.
Description of the Need for the Information and its Proposed Use: The data is essential to help assure that the grantee institutions monitor and guide funded students and their work placement agencies. The information will be used to make sure that students progress academically and develop their professional career potential in community development or a related field.
Form Number: None.
Respondents: Not-For-Profit Institutions and State, Local, or Tribal Government.
Frequency of Submission: Monthly.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	60		1		40		2,400
Quarterly/Semester	30		1		6		180
Final Report	30		1		8		240
Recordkeeping	30		1		5		150

Total Estimated Burden Hours: 2,970.
Status: Extension.
Contact: Jane Karadbil, HUD, (202) 708–1537; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: January 28, 1999.

[FR Doc. 99–2668 Filed 2–3–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–10]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: March 8, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval

number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 28, 1999.

David S. Cristy,

Director, IRM Policy and Management Division.

Title of Proposal: Contract for Development A/E Services and Contract for CIAP A/E Services.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0015.

Description of the Need for the Information and Its Proposed Use: Public Housing Agencies and Indian Housing Authorities (PHA/IHA) use Forms HUD–51915 and HUD–51915–A to contract for professional architect/engineer (A/E) services and to prepare the necessary documents for construction, rehabilitation, and modernization of housing developments.

Form Number: HUD–51915 and HUD–51915–A.

Respondents: State, Local, or Tribal Government, and Not-For-Profit Institutions.

Frequency of Submission: One-Time Submission.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	2,630		1		3		7,890
Recordkeeping	2,630		1		.25		657

Total Estimated Burden Hours: 8,557.

Status: Reinstatement with changes.

Contact: Satinder Munjal, HUD, (202) 708–1640; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: January 28, 1999.

[FR Doc. 99–2669 Filed 2–3–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–11]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: March 8, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 29, 1999.

David S. Cristy,

Director, IRM Policy and Management Division.

Title of Proposal: Quarterly Loan Level Reporting for the GNMA Mortgage-Backed Securities Program.

Office: Government National Mortgage Association.

OMB Approval Number: 2503–0026.

Description of the Need for the Information and Its Proposed Use: GNMA needs to collect loan level data from its more than 600 issuers to continue performing risk analyses, compliance monitoring, and cost analyses regarding its mortgage-backed securities program.

Form Number: None.

Respondents: Businesses or Other For-Profit and Federal Government.

Frequency of Submission: Quarterly.

Reporting Burden:

	Number of respondents	×	Frequency of respondent	×	Hours per response	=	Burden hours
Information Collection	396		4		4		6,336

Total Estimated Burden Hours: 6,336.

Status: Extension with changes.

Contact: Sonya Suarez, HUD, (202) 708–2772; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: January 29, 1999.

[FR Doc. 99–2670 Filed 2–3–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4457–FA–01]

Announcement of Funding Awards of Fiscal Year 1999 Supportive Housing Assistance; Partial Funding

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with HUD's regulations implementing section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this notice announces funding decisions made by HUD for a portion of the funding available for fiscal year 1999 for the Supportive Housing Program. The notice contains the names of award recipients and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: John D. Garrity, Director, Office of Special Needs Assistance Programs, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–4300. The TTY number for the hearing impaired is (202) 708–2565. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The purpose of the Supportive Housing Program is to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness and to promote the provision of supportive housing to homeless persons to enable them to live as independently as possible. The Supportive Housing Program is authorized by title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11381–11389), and the regulations for this program are found in 24 CFR part 583.

The regulations for the Supportive Housing Program authorize an award of renewals on a non-competitive basis (24 CFR 583.235(a)). Until Federal fiscal year 1997, HUD funding awards under this program were made on a noncompetitive basis. For Federal fiscal years 1997 and 1998, awards for renewals as well as new programs were made competitively, in response to notices of funding availability (NOFA).

For fiscal year 1999, HUD determined that terminating funding to high priority Supportive Housing Program renewal projects in Continuum of Care Homeless Assistance programs that were unsuccessful in the FY 1998 Continuum of Care Homeless Assistance competition would unduly threaten past investments that HUD has made in these projects and result in unacceptable reductions in services to homeless persons. Two hundred fifty-six Supportive Housing Program projects scheduled to complete the term of their grants in 1999 were not funded under the 1998 homelessness assistance competition. These unsuccessful applicants represented over 30 percent of all of the possible renewals—a significantly higher percentage than had failed to receive funding in the previous year.

To address the potential problems caused by not funding high priority renewals in low scoring Continuums, and to avoid significantly disrupting the philosophy of the Continuum of Care, HUD has decided to fund the 65 highest ranked Supportive Housing Program renewal projects which (1) passed threshold reviews in the FY 1998 competition; (2) were part of the unsuccessful Continuum of Care programs in the FY 1998 competition; and (3) were ranked within the pro rata share of funding based on a formula for need, when measured against the need of all applicants. The noncompetitive funding announced through this notice is $20,998,934, or approximately two percent of the appropriated fiscal year 1999 funds for homeless assistance programs. The NOFA for the Continuum of Care Homeless Assistance Program (of which Supportive Housing is a part) will be included in HUD's FY 1999 SuperNOFA.

The Catalog of Federal Domestic Assistance number for the Supportive Housing Program is 14.235.

Appendix A to this notice provides the names and addressees of the award recipients and the amounts of the awards. This information is provided in accordance with HUD's regulations at 24 CFR 4.7 implementing section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545).

Dated: January 29, 1999.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

APPENDIX A.—SUPPORTIVE HOUSING PROGRAM RENEWAL AWARDS ANNOUNCED IN JANUARY 1999

Sponsor name	Project city	Dollars awarded
New Futures, Inc	Huntsville, AL	$767,443
Mental Health/ Mental Retardation Board	Tuscaloosa, AL	200,350
North Arkansas Human Services System, Inc	Batesville, AR	490,953
Turning Point of Central California	Fresno, CA	485,178
Turning Point of Central California	Fresno, CA	234,790
San Luis Obispo Nonprofit Housing Corporation	San Luis Obispo, CA	1,484,848
St. Vincent DePaul Society	Bristol, CT	108,080
Another Way, Inc.	Chiefland, FL	168,819
The Salvation Army, A Georgia Corporation	Ocala, FL	308,142
Housing Options for the Mentally Ill in Evanston	Evanston, IL	238,742
C.E.F.S. Economic Opportunity Corporation	Effingham, IL	891,795
City of Portland Social Services Division	Portland, ME	158,126
City of Portland Social Services Division	Portland, ME	68,499
City of Portland Social Services Division	Portland, ME	126,451
City of Portland Social Services Division	Portland, ME	80,255
City of Portland, Maine	Portland, ME	71,355
City of Portland Social Services Division	Portland, ME	451,440
Mental Health Association of Greater Springfield	Springfield, MA	276,268
Children's Study Home	Springfield, MA	483,426

APPENDIX A.—SUPPORTIVE HOUSING PROGRAM RENEWAL AWARDS ANNOUNCED IN JANUARY 1999—Continued

Sponsor name	Project city	Dollars awarded
Turning Point, Inc	Newburyport, MA	1,000,000
Lynn Shelter Association, Inc	Peabody, MA	275,000
YWCA	Flint, MI	71,035
Gulf Coast's Women's Center for Nonviolence	Biloxi, MS	144,726
City of Natchez	Natchez, MS	850,496
Comprehensive Mental Health Services	Independence, MO	112,106
F.A.I.T.H., Inc	Clinton, MO	130,944
Town of Taos	Taos, NM	404,985
Economic Opportunity Corporation	Ithaca, NY	270,380
Rural Ulster Preservation Company, Inc	Kingston, NY	249,004
Women's Alliance, Inc	Dickinson, ND	112,801
YWCA of Dayton	Dayton, OH	1,510,617
Miami Valley Housing Opportunity, Inc	Dayton, OH	44,427
Miami Valley Housing Opportunity, Inc	Dayton, OH	99,471
Community Action Agency	Oklahoma City, OK	154,826
Red Rock Behavioral Health Services	Oklahoma City, OK	289,049
HOPE Community Services	Oklahoma City, OK	100,243
Latino Community Development Agency	Oklahoma City, OK	118,042
HOPE Community Services	Oklahoma City, OK	75,921
CarePoint, Inc	Oklahoma City, OK	271,197
Red Rock Behavioral Health Services	Oklahoma City, OK	148,472
Red Rock Behavioral Health Services	Oklahoma City, OK	130,781
Community Action Agency	Oklahoma City, OK	326,505
Red Rock Behavioral Health Services	Oklahoma City, OK	263,594
HOPE Community Services	Oklahoma City, OK	94,483
Latino Community Development Agency	Oklahoma City, OK	128,097
HOPE Community Services	Oklahoma City, OK	71,451
CarePoint, Inc	Oklahoma City, OK	240,996
Red Rock Behavioral Health Services	Oklahoma City, OK	224,005
Youth Services Consortium	Portland, OR	206,336
Uniontown Apartments	Astoria, OR	193,326
Westmoreland Human Opportunities, Inc	Greensburg, PA	1,374,583
Fundaciòn Modesto Gotay	Trujillo Alto, PR	128,640
Fundaciòn Modesto Gotay	Trujillo Alto, PR	128,640
SAMM Housing Corporation	San Antonio, TX	96,714
The Salvation Army, A Georgia Corporation	San Antonio, TX	777,128
Seton Home	San Antonio, TX	13,924
The Salvation Army	San Antonio, TX	435,418
American GI Forum	San Antonio, TX	27,876
City of San Antonio	San Antonio, TX	764,569
San Antonio AIDS Foundation	San Antonio, TX	53,244
Community Action Services	Provo, UT	633,582
Portsmouth Area Resources Coalition	Portsmouth, VA	148,755
Rappahannock Refuge, Inc	Fredericksburg, VA	305, 043
Loudon County Housing Services	Leesburg, VA	313,202
Stop Abusive Family Environments, Inc	Welch, WV	389,340

[FR Doc. 99–2671 Filed 2–3–99; 8:45 am]
BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request revising and extending the collection of information listed below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the USGS Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 60 days directly to the USGS Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192. As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. whether the collection of information is necessary for the proper performance of the functions of the USGS, including whether the information will have practical utility;

2. the accuracy of the USGS estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. the utility, quality, and clarity of the information to be collected; and,

4. how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Nonferrous Metals Surveys.

Current OMB approval number: 1028–0053.

Abstract: Respondents supply the U.S. Geological Survey with domestic production and consumption data on nonferrous and related metals. This information will be published as

monthly, quarterly, and annual reports for use by Government agencies, industry, and the general public.

Bureau form number: Various (32 forms).

Frequency: Monthly, Quarterly, and Annual.

Description of respondents: Producers and consumers of nonferrous and related metals.

Annual responses: 6,633.

Annual burden hours: 5,453.

USGS clearance officer: John E. Cordyack, Jr., 703–648–7313.

Kenneth W. Mlynarski,

Acting Chief Scientist, Minerals Information Team.

[FR Doc. 99–2645 Filed 2–3–99; 8:45am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO220–1020–01–241A]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). On October 20, 1998, BLM in the **Federal Register** (63 FR 40305) requesting comment on this proposed collection. The comment period ended on December 21, 1998. BLM received no (0) comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below.

The Office of Management and Budget is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration, your comments and suggestions on the requirement should be made directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0005), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340, Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW, Mail Stop 401 LS, Washington DC 20420.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validation of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Form 4130–1, Grazing Application—Grazing Schedule.

OMB approval number: 1004–0005.

Abstract: The Bureau of Land Management is proposing to renew the approval of an existing information collection, a form called ''Grazing Application—Grazing Schedule'', Form 4130–1. This form is used by grazing permittees or lessees to apply for annual grazing authorization to graze livestock on the public lands to BLM. The BLM uses the information to determine if the applied-for uses are within the applicants' grazing preferences, to collect grazing fees, and for program monitoring. After the initial filing, applicants need only file the form when they want to change their grazing preference.

Bureau Form Number: Form 4130–1.

Frequency: On Occasion.

Description of respondents: Respondents are applicants requesting authorization to graze livestock on the public lands administered by the Bureau of Land Management.

Estimated completion time: 20 minutes.

Annual responses: 6,000.

Annual burden hours: 2,000.

Collection Clearance Officer: Carole Smith, (202) 452–0367.

Dated: January 25, 1999.

Carole Smith,

Bureau of Land Management Information Clearance Officer.

[FR Doc. 99–2583 Filed 2–3–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Habitat Management Plan (HMP) for the North Bank Habitat Management Area (NBHMA), Douglas County, Oregon; and Notice of Public Scoping period. The NBHMA is approximately five miles east of Wilbur, Oregon on County Road 200 (North Bank Road).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, and 40 CFR 1501.7 the Bureau of Land Management (BLM), Roseburg District, will prepare an EIS/HMP that will evaluate the environmental impacts of management on the 6,580 acre North Bank Habitat Management Area. This plan is necessary to form a basis for the management of habitat for the Columbian white-tailed deer (a federally listed ''endangered'' species), as well as rare plants and other sensitive species of wildlife. The EIS/HMP will also identify recreational opportunities and habitat restoration projects. The effect of this action would be to meet criteria in the Recovery Plan required for delisting the Columbian white-tailed deer (CWTD).

DATES: Written comments will be accepted until March 8, 1999.

ADDRESSES: Comments should he sent to the District Manager, Roseburg District, Bureau of Land Management, 777 NW Garden Valley Blvd., Roseburg, Oregon 97470; Attention NBHMA Project.

FOR FURTHER INFORMATION CONTACT: Ralph Klein (541) 440–4931.

SUPPLEMENTARY INFORMATION: The EIS/HMP will be written in cooperation with the Oregon Department of Fish and Wildlife and the U.S. Fish and Wildlife Service. This agency previously developed an Environmental Analysis (EA) and HMP in 1998. These documents are available for public review at the Roseburg District Office during business hours. When the EA was written the public was provided an opportunity to provide scoping comments through four ''open house'' meetings, a news release and the Roseburg District Project Planning Update which is mailed out on a quarterly basis to inform the public of upcoming projects and comment opportunities. Previous comments that have been submitted will be considered in the development of the EIS. The following issues were identified in the EA:

1. Impacts to the CWTD and other special status species.

2. Degree of facility development and use.

3. Affect on adjacent landowners.

4. Affect on water quality.

The draft EIS is expected to be completed by June 1999, at which time the document will be made available for a 60 day public review and comment

period. If there is sufficient public interest, an open house meeting may be scheduled during the public comment period.

Dated: January 28, 1999.

Cary Osterhaus,

District Manager.

[FR Doc. 99–2652 Filed 2–3–99; 8:45 am]

BILLING CODE 4310–33–U

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID), is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) whether the proposed or continuing collections 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 burden estimates; (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: Send comments on this information collection on or before March 5, 1999.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC, 20523, (202) 712–1365 or via e-mail bjohnson@usaid.gov.

SUPPLEMENTARY INFORMATION:

OMB No.: OMB 0412–0506.
Form No.: AID 1420–50 (12/95).
Title: Vendor Data Base (formerly known as USAID Consultant Registry Information System (ACRIS) Instruction Books for the Organization Profile.
Type of Review: Renewal of Information Collection.

PURPOSE: USAID procuring activities are required to establish bidders mailing lists to assure access to sources and to obtain meaningful competition (41 CFR Section 1–2.205). In compliance with this requirement, USAID's Office of Small and Disadvantaged Business Utilization/Minority Resource Center has responsibility for developing and maintaining a Contractor's Index of bidders/offerors capable of furnishing services for use by the USAID procuring activities. (AIDAR 719.271–2(b)(4)).

Annual Reporting Burden:

Respondents: 1,000 hours.
Total annual responses: 1,000.
Total annual hours requested: 1,000.

Dated: January 26, 1999.

Willette L. Smith,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 99–2582 Filed 2–3–99; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree in Comprehensive Environmental Response, Compensation and Liability Act Cost Recovery Action

In accordance with the Departmental Policy, 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States* v. *Buckley & Company, et al.*, Civil Action No. 98–CV–6759 was lodged with the United States District Court for the Eastern District of Pennsylvania on December 30, 1998. This Consent Decree resolves the United States' claim against Buckley & Company, Somerset Strippers of Virginia, Inc., Robert Buckley, Sr. and Joseph Martosella (''Settling Defendants''), under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. §§ 9606 and 9607(a), for response costs incurred at the Strasburg Landfill Superfund Site in Newlin Township, PA. The Consent Decree requires the Settling Defendants to pay $7.5 million, plus certain interest, in reimbursement of response costs relating to the Strasburg Landfill cleanup.

The Department of Justice will accept written comments on the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States* v. *Buckley & Company et al.*, DOJ No. 90–11–3–962/1.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106; Region III Office of EPA, 1650 Arch Street, Philadelphia, PA 19103; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. When requesting a copy of the proposed Consent Decree, please enclose a check to cover the twenty-five cents per page reproduction costs payable to the ''Consent Decree Library'' in the amount of $12.00, and please reference *United States* v. *Buckley & Company, et al.* DOJ No. 90–11–3–962/1.

Joel M. Gross,

Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 99–2611 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 20 CFR 50.7, notice is hereby given that a consent decree that would resolve the liability of the Delaware Department of Transportation, the defendant in *United States* v. *State of Delaware, Department of Transportation*, Civil Action No. 98–651–RRM (D. Del.), was lodged with the United States District Court for the District of Delaware on November 23, 1998.

The proposed consent decree concerns alleged violations of the Clean Water Act, 33 U.S.C. 1311 *et seq.*, as a result of the unauthorized discharge of dredged and fill material into approximately one acre of wetlands and one-third acre of open water which are alleged to constitute ''waters of the United States.'' The subject wetlands, located in New Castle County, Delaware, are adjacent to Naaman's Creek and are impacted by defendant's project to improve and widen Naaman's Road between Marsh Road and Foulk Road.

The consent decree permanently enjoins defendant from taking any actions, or causing others to take any actions, which result in the discharge of dredged or fill materials into waters of the United States. The consent decree further requires the defendant to pay the following amounts: (1) A $25,000.00

civil penalty to the United States of America, and (2) a payment of $200,000 to the Nature Conservancy, an environmental organization, with the requirement that the money shall be dedicated by the Nature Conservancy to the purchase, preservation, and/or management of wetlands in New Castle County, Delaware. In addition, the consent decree requires that defendant provide additional environmental enhancements in the Naamans Creek watershed to further mitigate the impact of storm water runoff in the Naamans Road area.

The Department of Justice will receive written comments relating to the consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, Attention: Steven E. Rusak, Trial Attorney, Environmental Defense Section, P.O. Box 23986, Washington, DC 20026–3986, and should refer to *United States of America* v. *State of Delaware, Department of Transportation*, DJ Reference No. 90–5–1–4–05201.

The proposed consent decree may be examined at the Clerk's Office, United States District Court, 844 King Street, Wilmington, Delaware 19801.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 99–2607 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 to 9675

Notice is hereby given that a proposed consent decree in the case of *United States* versus *David B. Fisher, et al.*, Civil Action No. S92–00636M, was lodged on January 25, 1999 with the United States District Court for the Northern District of Indiana, South Bend Division. The proposed consent decree resolves the United States' claims against defendants Akzo Coatings, Inc. and The O'Brien Corporation for past costs incurred in connection with the Fisher Calo Chemicals Superfund Site located in LaPorte County, Indiana, in return for a total payment of $925,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *David B. Fisher, et al.*, DOJ Ref. #90–11–2–549A.

The proposed consent decree may be examined at the office of the United States Attorney, 204 South Main Street, South Bend, Indiana 46601–2191; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–2610 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Second Settlement Agreement and Stipulated Order in In Re NVF Company Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a Second Settlement Agreement and Stipulated Order in *In re NVF Company*, No. 93–1020 (D. Del.), has been entered into by the United States on behalf of U.S. EPA and NVF Company, and was lodged with the United States Bankruptcy Court for the District of Delaware on January 21, 1999. Under the Second Settlement Agreement and Stipulated Order, the United States will receive $1.8 million plus interest with respect to the NVF Kennett Square facility in Chester County, Pennsylvania.

The Department of Justice will receive comments relating to the proposed Second Settlement Agreement and Stipulated Order for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *In re NVF Company*, D.J. Ref. No. 90–11–2–979.

The proposed Second Settlement Agreement and Stipulated Order may be examined at the Office of the United States Attorney for the District of Delaware, 1201 Market Street, Suite 1100, Chemical Bank Plaza, Wilmington, DE 19899–2046; the Region 3 Office of the United States Environmental Protection Agency, 1650 Arch St., Philadelphia, PA 19103; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005 (202–624–0892). A copy of the proposed Second Settlement Agreement and Stipulated Order may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy of the proposed Amended Settlement Agreement, please enclose a check in the amount of $2.00 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–2608 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Consistent with Departmental policy, 28 C.F.R. 50.7, 38 FR 19029, and 42 U.S.C. § 9622, notice is hereby given that on January 25, 1999, a proposed consent decree in *United States* v. *Harry J. Smith, Jr., et al.*, Civil Action No. 99–21B, was lodged with the United States District Court for the District of Maine. The proposed Consent Decree will resolve the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.*, on behalf of the U.S. Environmental Protection Agency (''EPA'') against defendants Harry J. Smith, Jr., Terrell L. Lord, and Lisa J. Lord relating to the Eastern Surplus Company Superfund Site (''Site'') in Meddybemps, Maine. The proposed Complaint alleges that Mr. Smith is liable as a present owner, an owner at the time of disposal, an operator, and a person who accepted hazardous substances for transport to the Site under Sections 107(a)(1), (a)(2), and (a)(4) of CERCLA, 42 U.S.C. 9607(a)(1), (a)(2), and (a)(4). The

Complaint alleges that the Lords are liable as present owners under Section 107(a)(1) of CERCLA, 42 U.S.C. 9607(a)(1). The State of Maine (''State'') has filed a similar complaint against Smith and the Lords which also includes allegations that the United States is liable as a generator of hazardous substances at the Site pursuant to Section 107(a)(3) of CERCLA, 42 U.S.C. 9607(a)(3).

Pursuant to the Consent Decree, the Settling Defendants shall each transfer to the State virtually all of their respective property that forms a part of the Site. The United States, as a direct defendant to the State and a potential contribution defendant, will pay $11,287,000 to an Eastern Surplus Company Site Special Account within the Superfund and will also pay $2,082,000 to the State. In addition, if the United States' or the State's response costs at the Site exceed, within designated time periods, the currently anticipated United States and State response costs at the Site, the United States will pay 85 percent of the amount by which such costs exceed the anticipated amounts.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Any comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Harry J. Smith, Jr., et al.*, Civil Action No. 99–21B, D.J. Ref. 90–11–2–06059.

The proposed consent decree may be examined at the Office of the United States Attorney, District of Maine, Portland, Maine 04104, and at Region I, Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts 02203 and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $14.25 payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–2609 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 2, 1998, Akorn Manufacturing Inc., DBA Taylor Pharmaceuticals, 150 Wyckles Road, Decatur, Illinois 62522, made application by letter to the Drug Enforcement Administration to be registered as an importer of sufentanil (9740), a basic class of controlled substance listed in Schedule II.

The firm plans to import the sufentanil for development of analytical methods and initial formulation.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 8, 1999.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1995), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: January 27, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–2681 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 1, 1998, and published in the **Federal Register** on October 9, 1998, (63 FR 54491), Hoffmann-LaRoche, Inc., 340 Kingsland Street, Nutley, New Jersey 07110, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of levorphanol (9220), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture finished product for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Hoffmann-LaRoche, Inc. to manufacture levorphanol is consistent with the public interest at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. § 823 and 28 C.F.R. §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: January 27, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–2677 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 1, 1998, and published in the **Federal Register** on October 9, 1998, (63 FR 54492), Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of methamphetamine (1105), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture the methamphetamine in bulk for distribution to finished dosage manufacturers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Johnson Matthey, Inc. to manufacture methamphetamine is consistent with the public interest at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security system, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. § 823 and 28 C.F.R. §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: January 27, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–2678 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on October 29, 1998, Medeva Pharmaceuticals CA, Inc., 3501 West Gary Avenue, Santa Ana, California 92704, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of amphetamine (1100), a basic class of controlled substance listed in Schedule II.

The firm plans to synthesize amphetamine to support reintroduction of a product.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: January 27, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–2682 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on December 21, 1998, Medeva Pharmaceuticals CA, Inc., 3501 West Gary Avenue, Santa Ana, California 92704, made application by letter to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm plans to import the phenylacetone for the synthesis of amphetamine.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed in 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than March 8, 1999.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 F.R. 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: January 27, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–2683 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 13, 1998, and published in the **Federal Register** on July 29, 1998, (63 FR 40543), Novartis Pharmaceuticals Corp., Regulatory Compliance, 556 Morris Avenue, Summit, New Jersey 07901, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of methylphenidate (1724), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture finished product for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Novartis Pharmaceuticals Corp. to manufacture methylphenidate is consistent with the public interest at this time. DEA has investigated Novartis Pharmaceuticals Corp. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. § 823 and 28 CFR §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: January 22, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–2679 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 10, 1998, Orpharm Inc., 4815 Dacoma, Houston, Texas 77092, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacture of the basic classes of controlled substances listed below:

Drug	Schedule
Methadone (9250)	II
Methadone-intermediate (9254)	II
levo-alphacetylmethadol (9648)	II

The firm plans to manufacture methadone and methadone-intermediate for production of LAAM.

Any other such applicant and any person who is presently registered with DEA to manufacturer such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 5, 1999.

Dated: January 27, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–2684 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 1, 1998, and published in the **Federal Register** on October 9, 1998 (63 FR 54494), Research Biochemicals, Inc., Limited Partnership, Attn: Richard Milius, 1–3 Strathmore Road, Natick, Massachusetts 01760, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of cocaine (9041), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture small quantities of a derivative of cocaine.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Research Biochemicals, Inc. to manufacture cocaine is consistent with the public interest at this time. DEA has investigated Research Biochemicals, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. § 823 and 28 CFR §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: January 27, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–2680 Filed 2–3–99; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL SKILL STANDARDS BOARD

Notice of Open Meeting

AGENCY: National Skill Standards Board.

ACTION: Notice of open meeting.

SUMMARY: The National Skill Standards Board was established by an Act of Congress, the National Skill Standards Act, Title V, Pub. L. 103–227. The 27-member National Skill Standards Board serves as a catalyst for the development and implementation of a national system of voluntary skill standards and certification through voluntary partnerships. These partnerships will have the full and balanced participation of business, industry, labor, education and other key groups.

Time and Place: The meeting will be held from 8:30 a.m. to approximately 1:00 p.m. on Friday, February 19 at the Landsdowne Conference Resort located at 44050 Woodbridge Parkway, Leesburg, VA.

Agenda: The agenda for the Board Meeting will include: an update on the Board's Strategic Plan; reports from the Board's committees; presentations from the Voluntary Partnerships—Manufacturing, Installation and Repair (Manufacturing Skill Standards Council) and Retail Trade, Wholesale Trade, Real Estate & Personal Services (Sales and Services); and reports from Convening Groups representing the following industry clusters: Business & Administrative Services; Construction; Education and Training; Finance & Training; Restaurants, Lodging, Hospitality & Tourism, and Amusement & Recreation; and Telecommunications, Computers, Arts & Entertainment, and Information.

PUBLIC PARTICIPATION: The meeting is open to the public. Seating is limited and will be available on a first-come, first-served basis. (Seats will be reserved for the media.) If special accommodations are needed contact Michele Russo at (202) 254–8628 extension 10.

FOR FURTHER INFORMATION CONTACT: Tracy Marshall, Director of Operations at (202) 254–8628 extension 13.

Signed in Washington, DC this 28th day of January, 1999.

Edie West,

Executive Director, National Skill Standards Board.

[FR Doc. 99–2626 Filed 2–3–99; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Request Comment

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 354, ''Data Report on Spouse''.

2. *Current OMB Approval Number:* 3150–0026.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* NRC employees, contractors, licensees, applicants and others (e.g., interveners) who marry after completing NRC's Personnel Security Forms; or marry after having been granted an NRC access authorization or employment clearance.

5. *The number of annual respondents:* 60.

6. *The number of hours needed annually to complete the requirement or request:* 12 (.20 hours per response).

7. *Abstract:* Completion of the NRC Form 354 is a mandatory requirement for NRC employees, contractors, licensees, applicants and others who marry after submission of the Personnel Security Forms, or after receiving an access authorization or employment clearance, to permit the NRC to ensure there is no increased risk to the common defense and security.

Submit, by April 5, 1999, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft 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 about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, by telephone at 304–415–7233, or by Internet electronic mail at *BJS1@NRC.GOV*.

Dated at Rockville, Maryland, this 29th day of January 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–2631 Filed 2–3–99; 8:45 am]

BILLING CODE 7590–01–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: NRC Form 741: Revision; NRC Form 740m: Extension.

2. The title of the information collection:

—DOE/NRC Forms 741 & 741A—Nuclear Material Transaction Report;

—DOE/NRC Form 740M—Concise Note;

—NUREG/BR–0006—''Instructions for Completing Nuclear Material Transaction Reports and Concise Note, Forms 741, 741A, and 740M''.

3. How often the collection is required:

—DOE/NRC Form 741/741A: As occasioned by special nuclear material or source material transfers, receipts, or inventory changes that meet certain criteria.

—DOE/NRC Form 740M: As necessary to inform the U. S. or the International Atomic Energy Agency (IAEA) of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the US/IAEA Safeguards Agreement.

4. Who will be required or asked to report: Persons licensed to possess specified quantities of special nuclear material or source material, and licensees of facilities on the U. S. eligible list who have been notified in writing by the Commission that they are subject to 10 CFR Part 75.

5. An estimate of the number of responses:

—DOE/NRC Form 741/741A: 36,500

—DOE/NRC Form 740M: 1,140

6. The estimated number of annual respondents:

—DOE/NRC Form 741/741A: 1,200

—DOE/NRC Form 740M: 38

7. An estimate of the total number of hours needed annually to complete the requirement or request:

—DOE/NRC Form 741/741A: 27,375 for NRC and Agreement State licensees (.75 hour per response with an annual average of 22.8 hours per respondent for 1,200 respondents)

—DOE/NRC Form 740M: 855 for NRC and Agreement State licensees (.75 hour per response with an annual average of 22.5 hours per respondent for 38 respondents)

8. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

9. Abstract: NRC and Agreement State licensees are required to make inventory and accounting reports on DOE/NRC Form 741/741A for certain source or special nuclear material inventory changes, for transfers or receipts of special nuclear material, or for transfer or receipt of 1 kilogram or more of source material. Licensees affected by 10 CFR Part 75 and related sections of Parts 40, 50, 70, and 150 are required to submit DOE/NRC Form 740M to inform the U. S. or the IAEA of any qualifying statement or exception to any of the data contained in any of the other reporting forms required under the U.S./IAEA Safeguards Agreement. The use of

Forms 740M, 741, and 741A, together with NUREG/BR–0006, the instructions for completing the forms, enables NRC to collect, retrieve, analyze as necessary, and submit the data to IAEA to fulfill its reporting responsibilities.

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 March 8, 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 29th day of January 1999.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–2630 Filed 2–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143]

Consideration of License Renewal Request for Nuclear Fuel Services, Inc.

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Finding of no significant impact for the renewal of license for Nuclear Fuel Services, Inc. Facility in Erwin, Tennessee.

The U.S. Nuclear Regulatory Commission is considering the renewal of Special Nuclear Material License SNM–124 to authorize processing of highly enriched uranium (HEU) into a classified fuel product for the U.S. Naval Reactor Program, processing of HEU scrap to recover uranium, and various decommissioning activities at the Nuclear Fuel Services, Inc. (NFS) facility located in Erwin, Tennessee.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is to renew License No. SNM–124, so as to continue operations and to perform certain decommissioning activities at the NFS Erwin Plant. The principal operations expected during the renewal period include the processing of HEU into a classified fuel product and processing HEU scrap to recover uranium, as well as support operations. The principal decommissioning activities expected during the renewal period include excavation, sampling, segregation, packaging, and offsite disposal of radioactive materials from two burial areas, the North Site Radiological Burial Ground and the Southwest Burial Trenches.

Impacts from final decommissioning of the North Site to meet unrestricted release criteria are also included in the Environmental Assessment (EA). The North Site refers to all NFS property north of the manufacturing facilities and covers approximately 10 hectares (24 acres). However, NRC approval of these activities will be considered as a separate licensing action.

In addition to the Proposed Alternative, a No-action Alternative was also assessed. Under this alternative, HEU production and scrap recovery operations would not be authorized. Instead, the license for the NFS plant would be renewed to only allow ongoing decommissioning activities. Eventually NFS would be required to initiate final decommissioning of the entire site. These decommissioning operations would be conducted in accordance with an approved decommissioning plan prepared by NFS after a thorough site survey. The NRC would assess the environmental impacts of site-wide decommissioning activities during review of this plan.

Need for the Proposed Action

The NFS Erwin Plant provides unique fuel material fabrication and uranium recovery services for the United States. NFS is the sole fabricator of classified fuel material for the United States Naval Reactor Program and is also involved in U.S. Department of Energy uranium recovery projects.

Environmental Impacts of the Proposed Action

Normal Operations

Normal operations will involve discharges to the atmosphere and to surface water. Radionuclides that may be released include isotopes of the actinide elements uranium, thorium, plutonium, and americium and lesser amounts of fission products, including technicium. Sources of releases to the atmosphere are the main plant stack, secondary stacks in process buildings, and fugitive dust emissions from decommissioning/remediation activities. Sources of releases to surface water include the waste water treatment system, the secondary cooling system, and the sanitary sewer system.

A dose assessment was performed to estimate the impact from radiological releases to the air. Atmospheric release exposure pathways included inhalation, ingestion of contaminated crops and resuspended dirt, and external exposure to the airborne plume and contaminated ground. For these atmospheric releases, the largest tissue dose is to the lung from inhalation of ^{234}U, with minor contribution from the crop ingestion and external-exposure pathways. For the maximally exposed individual, the committed effective dose equivalent (CEDE) for combined releases from production operations and decommissioning/remediation activities was estimated as 2.7×10^{-5} Sv/yr (2.7 mrem/yr). Doses from remediation activities are about an order of magnitude less than doses from production activities.

A dose assessment was also performed to estimate the impact from radiological releases to surface water. Liquid effluents are released directly or indirectly into the Nolichucky River. Small creeks receiving portions of the liquid discharge, Banner Spring Branch and Martin Creek, are not used as a drinking water supply for area residents. The analysis assumes that an individual along the Nolichucky River and the surrounding population out to a distance of 80 kilometers (50 miles) use this potentially contaminated water. Liquid-release exposure pathways included ingestion of drinking water, fish, and irrigated crops and external exposure during recreational activities. The largest tissue doses are to the bone surface from ingestion of thorium-232, and external doses are a factor of 2500 smaller than internal doses. Fish, crop, and drinking-water consumption account for 49, 37, and 14 percent of the dose, respectively. The CEDE for the maximally exposed individual was estimated as 9.7×10^{-7} Sv/yr (0.10 mrem/yr).

Under the proposed action, about 2874 shipments of contaminated soil would be transported offsite to the Envirocare disposal facility in Utah. The reference value used for estimating radiological exposure to the public from transporting contaminated soil from a

uranium fuel fabrication plant is 8.00×10^{-6} person-rem per shipment. Multiplying this dose rate by the number of waste shipments yields 23 person-mrem. Thus, a small fraction of one person-rem would be received by the public from transporting waste offsite.

NRC regulations in 10 CFR 20.1301(a)(1) require that the total effective dose equivalent (TEDE) for members of the public not exceed 1.0×10^{-3} Sv (100 mrem) per year. In addition, 10 CFR 20.1101(d) requires licensees to implement a constraint on atmospheric releases other than radon such that an individual member of the public will not be expected to receive a dose in excess of 1×10^{-4} Sv (10 mrem)/yr from these releases. Although not applicable to the NFS Erwin Plant because it does not process uranium for the production of electric power, U.S. Environmental Protection Agency (EPA) regulations (40 CFR 190) require that for routine releases, the annual dose equivalent for all pathways not exceed 2.5×10^{-4} Sv (25 mrem) to the whole body, 7.5×10^{-4} Sv (75 mrem) to the thyroid, and 2.5×10^{-4} Sv (25 mrem) to any other organ. Doses related to NFS Erwin Plant operations are dominated by releases to the atmosphere. For the maximally exposed individual, the annual TEDE was estimated as 2.7×10^{-5} Sv (2.7 mrem), well within the limits established by NRC and EPA. The largest annual tissue dose was estimated as 2.1×10^{-4} Sv (21 mrem) to the lung. Although this tissue dose approaches the 40 CFR 190 limit, it is based on conservative estimates of atmospheric dispersion and of releases from process vents to bound all possible activities. The actual impacts are expected to be less than these estimates. The estimated dose from all other releases are small fractions of applicable limits.

The impact analysis considers individuals living near the plant and the surrounding population out to a distance of 80 kilometers (50 miles). The total population dose (about 0.4 per-Sv/yr) is a small addition to a background dose for the affected population of 950,000, which is approximately 1000 per-Sv/yr.

Impacts from releases of non-radiological contaminants to air, surface water, and groundwater were also assessed. Air quality is protected by enforcing emission limits and the maintenance of pollution control equipment, as required under several operating permits issued by the Tennessee Air Pollution Control Board, Department of Environment and Conservation. The primary nonradiological emissions are expected to include volatile organic compounds, carbon monoxide, and nitrogen oxides. Normal emissions of gaseous effluents from process stacks are not expected to have a significant impact on offsite nonradiological air quality, because the estimated concentrations at the nearest site boundary are two to three orders of magnitude less than the most stringent State of Tennessee primary air-quality standards. The emission rate reported for hydrogen fluoride (HF) is estimated to result in a concentration that is at least 50 to 60 percent less than the most stringent State of Tennessee standard.

Several chemical contaminants have been detected in Banner Spring Branch at levels which exceed site-specific criteria. NFS has proposed the removal of contaminated soils, sediments, and piping, which are believed to be the source of the contamination. In addition, NFS will routinely monitor Banner Spring Branch for cyanide and zinc as recommended in the Resource Conservation and Recovery Act Facility Investigation Report for Areas of Concern #2 (Building 111 boiler blowdown and backwash water) and #4 (storm sewer system). No contamination of other surface waters due to plant activities has been identified.

Surface water quality is expected to be protected from future site activities by enforcing release limits and monitoring programs, as required under the National Pollutant Discharge Elimination System (NPDES) permit. Annual average concentrations of parameters regulated by the NPDES permit have generally been below discharge limits established for outfalls 001 and 002 from 1990 to 1996 when either production operations or decommissioning activities were being performed. Therefore, these parameters are expected to remain below the discharge limits during the license renewal period. Furthermore, discharges are not expected to have significant impact on the surface water quality in the Nolichucky River because of the dilution volume in the river.

Previous operation of the plant has resulted in localized chemical and radiological contamination of groundwater. Groundwater monitoring conducted by NFS indicates that plumes of uranium, tetrachloroethylene, trichloroethylene, 1,2-dichloroethylene, and vinyl chloride could migrate offsite in the direction of the Nolichucky River. To address this contamination, NFS has removed much of the source of the contamination through extensive remediation projects including excavation of contaminated areas in the North Site. In addition, NFS is currently engaged in decommissioning of the Radiological Burial Ground and has proposed a final decommissioning plan for the entire North Site to remove more of the source term. NFS is also working with the Tennessee Department of Environment and Conservation and the Environmental Protection Agency to design remedial strategies and to investigate the offsite extent of these plumes.

Groundwater modeling conducted by NFS also indicates that contamination from the NFS site should not have an impact on local drinking water because contaminant plumes are not expected to intersect the capture zone for this water. However, NFS will be required by the NRC to continue routine groundwater monitoring to assess the nature and extent of groundwater contamination and will be required to conduct remediation, if necessary, to prevent offsite impacts to human health and safety.

If the license is renewed to allow both production operations and decommissioning/ remediation activities, approximately 39,100 cubic meters (1,380,000 cubic feet) of waste would be shipped offsite to Envirocare in Utah. Assuming that each waste shipment contains 13.6 cubic meters (480 cubic feet) of waste, 2874 shipments of soil would be transported to Envirocare. To estimate the number of fatalities from transporting waste, the fatal accident risk rate was multiplied by the distance traveled, where the distance traveled is the round trip between the facility and the disposal site. A fatal accident rate of 3.8×10^{-8} per kilometer (6.1×10^{-8} per mile) traveled was assumed. Multiplying this fatal accident rate by a round trip distance of 6560 kilometers (4100 miles) between the NFS plant in Erwin, Tennessee, and Envirocare in Clive, Utah, and the number of shipments yields a risk of less than one (0.72) fatality.

No impacts are expected on land use, biotic resources, or cultural resources. And a small positive socioeconomic impact is expected through the employment of 350 people at the site.

Accident Conditions

The handling, processing, and storage of material containing radioactive constituents at the NFS Erwin Plant could result in uncontrolled release of radioactive material to the environment from accidents. Therefore, the NRC staff conducted an accident analysis. A drop of contaminated dirt during remediation activities, failure of a high efficiency particulate air filter as a consequence of fire, and a generic criticality event were selected as representative accidents. The

TEDE to the maximally exposed individual from accidents involving a spill of contaminated soil or a facility fire were estimated to be less than 0.05 mSv (5 mrem), a small fraction of annual background exposure.

The prompt, external, and internal doses due to an inadvertent criticality were estimated to be 5.0×10^{-3}, 1.5×10^{-2}, and 2.6×10^{-1} Sv (0.5, 1.5, and 0.026 rem), respectively, for the maximally exposed nearest resident. Because two independent, concurrent failures must occur before initiation of a nuclear criticality, the possibility of such an event occurring is considered by the NRC staff to be extremely low. Therefore, the overall risk from such an accident is acceptable.

Agencies and Persons Consulted

The State of Tennessee Department of Environment and Conservation (DEC) was contacted concerning renewal of the NFS license. DEC had not identified any environmental issues associated with renewal and did not object to renewal.

Conclusion

The NRC has determined that the issuance of the renewal to allow NFS to process HEU into a classified fuel product, to process HEU scrap to recover uranium, and to conduct specified decommissioning activities will not result in significant impact to human health or the environment.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the renewal of Special Nuclear Material License SNM–124. On the basis of the Assessment, the Commission has concluded that the environmental impacts associated with the proposed action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding Of No Significant Impact is appropriate.

The Environmental Assessment and the documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room at the Gelman Building, 2120 L Street NW, Washington, DC.

The NRC contact for this licensing action is Thomas Cox. Mr. Cox may be contacted at (301) 415–8107 or thc@nrc.gov for more information.

Dated at Rockville, Maryland, this 29th day of January 1999.

For the Nuclear Regulatory Commission.

Charles W. Emeigh,

Acting Chief, Licensing Branch, Division of Fuel Cycle Safety and Safeguards, NMSS.

[FR Doc. 99–2628 Filed 2–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499]

STP Nuclear Operating Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of STP Nuclear Operating Company (the licensee) to withdraw its August 18, 1997, application for proposed amendment to Facility Operating Licenses Nos. NPF–76 and NPF–80 for the South Texas Project, Units 1 and 2, located in Matagorda County, Texas.

The proposed amendment would have revised Technical Specification 3.7.1.6, Atmospheric Steam Relief Valves, to ensure the automatic feature of the steam generator power operated relief valve remains operable during Modes 1 and 2. In addition, the proposed change would have added a surveillance requiring that a channel calibration on the steam generator power operated relief valve be performed every 18 months. Subsequently, by letter dated January 19, 1999, the licensee withdrew the amendment request.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 24, 1997 (62 FR 50007). However, by letter dated January 19, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 18, 1997, and the licensee's letter dated January 19, 1999, 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 Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Dated at Rockville, Maryland, this 29th day of January 1999.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 99–2629 Filed 2–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Monday, February 9, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Monday February 9

2:00 p.m.—Briefing on HLW Program Viability Assessment (Public Meeting)

3:30 p.m.—Briefing by Executive Branch—(Closed-ex. 4 & 9b)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meeting call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers, if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: February 1, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–2745 Filed 2–2–99; 11:39 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations''

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

ACTION: Proposed revision.

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed revision to OMB Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.'' Pub. L. 105–277 directs OMB to amend Section ____.36 of OMB Circular A–110 to require Federal awarding agencies ''to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act'' (FOIA). The Act further states that ''if the agency obtaining the data does so solely'' in response to a FOIA request, the agency ''may authorize a reasonable user fee equaling the incremental cost of obtaining the data.'' Pursuant to the direction of Pub. L. 105–277, OMB is proposing to revise Circular A–110 as shown below.

DATES: Comments must be received by April 5, 1999.

ADDRESSES: Comments on this proposed revision should be addressed to: F. James Charney, Policy Analyst, Office of Management and Budget, Room 6025, New Executive Office Building, Washington, DC 20503. If possible, please include a word processing version of comments on a computer disk. Comments may also be submitted via E-mail to: fcharney@omb.eop.gov. Please include the full body of E-mail comments in the text of the message and not as an attachment. Please include the name, title, organization, postal address, and E-mail address in the text of the message.

FOR FURTHER INFORMATION CONTACT: F. James Charney, Policy Analyst, Office of Management and Budget, at (202) 395–3993.

SUPPLEMENTARY INFORMATION: Pub. L. 105–277 includes a provision that directs OMB to amend Section ____.36 of OMB Circular A–110 ''to require Federal awarding agencies to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act.'' Pub. L. 105–277 further provides that ''if the agency obtaining the data does so solely at the request of a private party, the agency may authorize a reasonable user fee equaling the incremental cost of obtaining the data.'' According to congressional floor statements made in support of the provision, its aim is to ''provide the public with access to federally funded research data'' that is ''used by the Federal Government in developing policy and rules.'' 144 Cong. Rec. S12134 (October 9, 1998) (Statement of Sen. Lott); *see id.* (Statement of Sen. Shelby) (the provision ''represents a first step in ensuring that the public has access to all studies used by the Federal Government to develop Federal policy'').

In describing the foregoing provisions of Pub. L. 105–277, congressional proponents stated that it requires OMB ''to amend OMB Circular A–110 to require Federal awarding agencies to ensure that all research results, including underlying research data, funded by the Federal Government are made available to the public through the procedures established under the Freedom of Information Act.'' *Id.* (Statement of Sen. Lott). The proponents also stated that ''the amended Circular shall apply to all Federally funded research, regardless of the level of funding or whether the award recipient is also using non-Federal funds.'' *Id.* (Statement of Sen. Campbell). They also explained that ''[t]he Conferees recognize that this language covers research data not currently covered by the Freedom of Information Act. The provision applies to all Federally funded research data regardless of whether the awarding agency has the data at the time the request is made'' under the FOIA. *Id.* Under the Supreme Court's decision in *Forsham* v. *Harris*, 445 U.S. 169, 179–80 (1980), data that is in the files of a recipient of a Federal award, but not in the files of a Federal agency, would not otherwise be available under FOIA.

The proposed revision to Section ____.36 of Circular A–110 implements the requirements of Pub. L. 105–277 by providing that, after publication of research findings used by the Federal government in developing policy or rules, the research results and underlying data would be available to the public in accordance with the FOIA. Pursuant to the direction of Pub. L. 105–277, the proposed revision requires Federal awarding agencies, in response to a FOIA request, to obtain the requested data from the recipient of the Federal award. Since the agency must take steps to obtain the data, the agency is afforded a reasonable time to do so. Once the agency has obtained the data, the agency will then process the FOIA request in accordance with the standard procedural and substantive rules that govern FOIA requests. These standard FOIA rules include the statutory concept of what constitutes a ''record'' and the statutory ''exemptions'' (found in 5 U.S.C. 552(b)) from the FOIA's requirement to disclose records. Accordingly, after obtaining and reviewing the requested data, the agency will have to determine whether any of the FOIA exemptions, which permit an agency to withhold requested records, would apply to some or all of the data. For example, FOIA Exemption 6, 5 U.S.C. 552(b)(6), exempts ''personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy''. If the Federal awarding agency obtained the data solely in response to a FOIA request, the agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the data. This fee should reflect costs incurred by the agency, the recipient, and applicable subrecipients. This fee is in addition to any fees the agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

OMB recognizes that this proposed revision required by Pub. L. 105–277 raises a number of important issues. Accordingly, OMB encourages interested parties to provide comment at this time so that any concerns may be addressed in OMB's development of the final revision to the Circular, to be published after the close of the comment period.

In conclusion, pursuant to the direction contained in Pub. L. 105–277 OMB is proposing to revise Circular A–110 as shown below.

Issued in Washington, DC, January 26, 1999.

Norwood J. Jackson,

Acting Controller.

Pursuant to the direction of Pub. L. 105–277, OMB hereby proposes to amend Section ____.36(c) of OMB Circular A–110 to read as follows:

(c) The Federal Government has the right to (1) obtain, reproduce, publish or otherwise use the data first produced under an award, and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. In addition, in response to a Freedom of Information Act (FOIA) request for data relating to published research findings produced under an award that were used by the Federal Government in developing policy or

rules, the Federal awarding agency shall, within a reasonable time, obtain the requested data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the data solely in response to a FOIA request, the agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the data. This fee should reflect costs incurred by the agency, the recipient, and applicable subrecipients. This fee is in addition to any fees the agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

[FR Doc. 99–2220 Filed 2–3–99; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel No. IC–23671; File No. 812–11344]

Rydex Variable Trust, et al.

January 29, 1999.

AGENCY: Securities and Exchange Commission (the ''SEC'' or the ''Commission'').

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 (the ''1940 Act'') granting exemptive relief from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit shares of the Rydex Variable Trust and shares of any other investment company that is designed to fund insurance products and for which PADCO Advisors II, Inc. (''PADCO''), or any of its affiliates, may serve as investment advisor, administrator, manager, principal underwriter, or sponsor (collectively, the ''Trust'') to be sold to and held by: (a) Variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies (the ''Participating Insurance Companies''); and (b) qualified pension and retirement plans outside the separate account context (the ''Qualified Plans'').

Applicants: Rydex Variable Trust and PADCO Advisors II, Inc.

Filing Date: The application was filed on October 7, 1998, amended and restated on December 17, 1998, and amended and restated on January 28, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on February 24, 1999, and accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Morgan, Lewis & Bockius LLP, Attention: John H. Grady, Jr., Esq., and C. Ronald Rubley, Esq., One Logan Square, Philadelphia, PA 19103–6993.

FOR FURTHER INFORMATION CONTACT: Martha Peterson, Attorney, or Susan Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, NW, Washington, DC (tel. (202) 942–8090).

Applicants' Representations

1. Rydex Variable Trust, a Delaware business trust, currently consists of 22 separate series, each for a separate portfolio (such portfolios, and additional portfolios that may be added in the future, are referred to herein individually as a ''Portfolio'' and collectively as ''Portfolios'').

2. PADCO serves as the investment advisor to Rydex Variable Trust and is registered as an investment advisor under the Investment Advisers Act of 1940.

3. Applicants state that shares of Portfolios of the Trust may be offered to variable annuity separate accounts and variable life insurance separate accounts established by Participating Insurance Companies that may or may not be affiliated with one another, and to Qualified Plans.

4. The Participating Insurance Companies will establish their own separate accounts (the ''Separate Accounts'') and design their own variable annuity and variable life insurance contracts (''Variable Contracts''). Applicants state that the role of the Trust under this arrangement will consist of offering shares to the Separate Accounts and fulfilling any conditions that the Commission may impose upon granting the order requested in the application.

5. Applicants state that the Trust can increase its asset base through the sale of shares of the Trust to the Qualified Plans. The Qualified Plans may choose the Trust as the sole investment option under a Plan or as one of several investment options. Participants in the Qualified Plans may be given an investment choice depending upon the Qualified Plan. Shares of the Trust sold to a Qualified Plan will be held by the trustees of the Qualified Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act (''ERISA'').

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a Separate Account registered under the 1940 Act as a unit investment trust (''UIT''), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions provided under Rule 6e–2(b)(15) are available only where the management investment company underlying the UIT offers its shares ''exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.'' The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts is referred to as 'mixed funding,'' The use of a common investment company as the underlying investment medium for separate accounts of unaffiliated insurance companies is referred to as ''shared funding.'' The relief provided under Rule 6e–2(b)(15) is not applicable to a scheduled premium variable life insurance separate account that owns shares of an underlying fund where the underlying fund offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated insurance company. Therefore, Rule 6e–2(b)(15) does not provide exemptive relief for either mixed funding or shared funding.

2. Applicants state that with respect to Rule 6e–2, exemptive relief is also necessary if shares of the Trust are to be sold to Qualified Plans since the relief under Rule 6e–2 is available only where shares are offered exclusively to separate accounts of insurance companies.

3. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act

as a UIT, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions provided under Rule 6e–3(T)(b)(15) are available only where all the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company.'' Therefore, Rule 6e–3(T) permits mixed funding, but does not permit shared funding.

4. Applicants state that with respect to Rule 6e–3(T), exemptive relief is also necessary if shares of the Trust are to be sold to Qualified Plans since the relief under Rule 6e–3(T) is available only where shares are offered exclusively to separate accounts of insurance companies.

5. Applicants state that changes in the tax law have created the opportunity for the Trust to increase its asset base through the sale of Trust shares to the Qualified Plans. Applicants state that Section 817(h) of the Internal Revenue Code of 1986, as amended (the ''Code''), imposes certain diversification standards on fund investments underlying variable contracts. Specifically, the Code provides that a variable contract shall not be treated as an annuity contract or life insurance contract for any period (and any subsequent period) for which the investments, in accordance with regulations prescribed by the Treasury Department, are not adequately diversified. On March ,m 1989, the Treasury Department issued regulations which established diversification requirements for the investment portfolios underlying variable contracts (Treas. Reg. § 1.817–5(1989)). The regulations provide in pertinent part, an insurance company separate account may look through to the investments of a regulated investment company in which it invests in order to meet the diversification requirements, if all of the beneficial interests in the regulated investment company are held by separate accounts of one or more insurance companies. The regulations, however, contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of life insurance companies to hold shares in the same investment company in their separate accounts (Treas. Reg. § 1.817–5(f)(3)(iii)).

6. Applicants state that the promulgation of Rules 6e–2 and 6e–3(T) under the 1940 Act preceded the issuance of these Treasury regulations. Applicants assert that, in all probability, the sale of shares of the same investment company to both separate accounts and Qualified Plans was not envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(15).

7. Applicants therefore request relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Trust to be offered and sold to, and held by, Qualified Plans, as well as separate accounts.

8. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment advisor to, or principal underwriter for, any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a)(1) or (2). Rules 6e–2(b) and 6e–3(T)(b)(15) provide exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. The relief provided by Rules 6e–2(b)(15)(i) and 6e–3(T)(b)(15)(i) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying fund. The relief provided by Rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) permits the life insurer to serve as the underlying fund's investment advisor or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) participate in the management or administration of the fund.

9. Applicants state that the partial relief from Section 9(a) found in Rules 6e–2(b)(15) and 6e–3(T)(b)(15), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of the Section. Applicants state that those 1940 Act rules recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in a large insurance company complex, most of whom will have no involvement in matters pertaining to investment companies within the organization. Applicants note that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds. Therefore, Applicants assert, applying the restrictions of Section 9(a) serves no regulatory purpose. The application states that the relief requested should not be affected by the proposed sale of shares of the Trust to Qualified Plans because the Plans are not investment companies and are not, therefore, subject to Section 9(a).

10. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15(iii) under the 1940 Act assume the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. Applicants state that the Participating Insurance Companies will provide pass-through voting privileges to all Variable Contract owners so long as the Commission interprets the 1940 Act to require such privileges.

11. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the 1940 Act provide exemptions from the pass-through voting requirement with respect to several significant matters, assuming observance of the limitations on mixed and shared funding imposed by the 1940 Act and the rules thereunder. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard voting instructions of its contract owners with respect to the investments of an underlying fund, or any contract between a fund and its investment advisor, when required to do so by an insurance regulatory authority. Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that the insurance company may disregard voting instructions of its contract owners if the contract owners initiate any change in the company's investment policies, principal underwriter, or any investment advisor, provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(15)(ii) and (b)(7)(ii)(B) and (C) of each rule.

12. Applicants further represent that the sale of Trust shares to Qualified Plans does not impact the relief requested in this regard. Applicants note that shares of the Trust sold to Qualified Plans would be held by the trustees of such Qualified Plans as required by Section 403(a) of ERISA. Section 403(a) provides that the trustee(s) must have exclusive authority and discretion to manage and control the Qualified Plan with two exceptions: (a) When the Qualified Plan expressly provides that the trustee(s) is subject to the direction of a named fiduciary who

is not a trustee, in which case the trustee(s) is subject to proper directions made in accordance with the terms of the Qualified Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, Qualified Plan trustees have the exclusive authority and responsibility for voting proxies. Some Qualified Plans, however, may provide for the trustee, an investment advisor, or another named fiduciary to vote shares in accordance with instructions from plan participants. With respect to Qualified Plans whose governing documents do not provide plan participants with pass through voting, the issue of resolving any irreconcilable conflict with respect to voting is not present. With respect to Qualified Plans whose governing documents do provide plan participants with pass through voting privileges, Applicants state there is no reason to believe that plan participants will vote in a manner that would disadvantage Variable Contract owners.

13. Applicants state that no increased conflicts of interest would be presented by the granting of the requested relief. Applicants assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several, or all, states. Applicants note that where insurers are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one insurance company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other insurance companies are domiciled. Applicants submit that this possibility is no different and no greater than exists where a single insurer and its affiliates offer their insurance products in several states.

14. Applicants further submit that affiliation does not reduce the potential, if any exists, for differences among state regulatory requirements. In any event, Applicants state that the conditions (adapted from the conditions included in Rule 6e–3(T)(b)(15)) discussed below are designed to safeguard against, and provide procedures for resolving, any adverse effects that these differences may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant portfolio or fund.

15. Applicants also state that affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment advisor initiated by contract owners. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard contract owner instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the Trust, to withdraw its investment in the Trust. No charge or penalty will be imposed as a result of such withdrawal.

16. Applicants state that there is no reason why the investment policies of the Trust would or should be materially different from what those policies would or should be if such investment company or series thereof funded only variable annuity or variable life insurance contracts. Applicants therefore argue that there is no reason to believe that conflicts of interest would result from mixed funding. Applicants represent that the Trust will not be managed to favor or disfavor any particular Participating Insurance Company or type of insurance product.

17. Section 817(h) imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits ''qualified pension or retirement plans'' and separate accounts to share the same underlying management investment company. Therefore, Applicants have concluded that neither the Code, nor the Treasury regulations nor the revenue rulings thereunder present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life insurance separate accounts all invest in the same management investment company.

18. Applicants state that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Qualified Plans, these tax consequences do not raise any conflicts of interest with respect to the use of the Trust. When distributions are made, and the separate account or the Qualified Plan is unable to net purchase payments to make the distributions, the separate account or the Qualified Plan will request redemption of shares of the Trust at their respective net asset value in conformity with Rule 22c–1 under the 1940 Act. The Qualified Plan will then make distributions in accordance with the terms of the Qualified Plan and the Participating Insurance Company will make distributions in accordance with the terms of the Variable Contract.

19. With respect to voting rights, Applicants state that it is possible to provide an equitable means of giving such voting rights to contract owners and to the trustees of Qualified Plans. Applicants represent that the transfer agent for the Trust will inform each Participating Insurance Company of its share ownership in each Separate Account, and will inform the trustees of Qualified Plans of their holdings. Each Participating Insurance Company will then solicit voting instructions in accordance with the ''pass-through'' voting requirement of Rules 6e–2 and 6e–3(T).

20. Applicants contend that the ability of the Trust to sell its shares directly to Qualified Plans does not create a ''senior security,'' as such term is defined under Section 18(g) of the 1940 Act, in favor of any contract owner or any participant under a Qualified Plan. Regardless of the rights and benefits of participants and contract owners under the respective Qualified Plans and Variable Contracts, the Qualified Plans and the Separate Accounts have rights only with respect to their shares of the Trust. Such shares may be redeemed only at net asset value. No shareholder of the Trust has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

21. Finally, Applicants state that there are no conflicts between contract owners and participants under the Qualified Plans with respect to the state insurance commissioners' veto powers (direct with respect to variable life insurance and indirect with respect to variable annuities) over investment objectives. The basic premise of shareholder voting is that not all shareholders may agree that there are inherent conflicts of interest between shareholders. The state insurance commissioners have been given the veto power in recognition that insurance companies usually are unable simply to request redemption out of one fund and invest those moneys in another fund. Generally, to accomplish such redemptions and transfers, complex and

time consuming transactions must be undertaken. Conversely, trustees of Qualified Plans can make the decision quickly and implement redemption of shares from a Trust and reinvest the moneys in another funding vehicle without the same regulatory impediments or, as is the case with most Qualified Plans, even hold cash pending suitable investment. Based on the foregoing, Applicants represent that even should there arise issues where the interests of contract owners and the interests of Qualified Plans conflict, the issues can be almost immediately resolved because the trustees of the Qualified Plans can, on their own, redeem shares out of the Trusts.

22. Applicants state that various factors have kept certain insurance companies from offering variable annuity and variable life insurance contracts. According to Applicants, these factors include: The cost of organizing and operating an investment funding medium; the lack of expertise with respect to investment management (principally with respect to stock and money market investments); and the lack of name recognition by the public of certain insurers as investment professionals. Applicants contend that use of the Trust as common investment media for the Variable Contracts would reduce these concerns. Participating Insurance Companies would benefit not only from the investment and administrative expertise of the responsible advisors and their affiliates, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Applicants state that making the Trust available for mixed and shared funding may encourage more insurance companies to offer variable contracts such as the Variable Contracts which may then increase competition with respect to both the design and the pricing of variable contracts. Applicants submit that this can be expected to result in greater product variation and lower charges. Thus, Applicants represent that contract owners would benefit because mixed and shared funding will eliminate a significant portion of the costs of establishing and administering separate funds. Moreover, Applicants assert that sales of shares of the Trust to Qualified Plans should increase the amount of assets available for investment by the Trust, thereby promoting economies of scale and increased safety through greater diversification.

23. Applicants believe that there is no significant legal impediment to permitting mixed and shared funding. Additionally, Applicants note the previous issuance of orders permitting mixed and shared funding where shares of a fund were sold directly to qualified plans such as the Qualified Plans.

Applicants' Conditions

Applicants have consented to the following conditions:

1. A majority of the Trust's Board shall consist of persons who are not ''interested persons'' of the Trust, as defined by Section 2(a)(19) of the 1940 Act, and the rules thereunder, and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification or bona-fide resignation of any director or directors, then the operation of this condition shall be suspended: (a) For a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe, by order, upon application.

2. The Board will monitor the Trust for the existence of any material irreconcilable conflict between and among the interests of the variable annuity and variable life insurance contract owners investing in the Separate Accounts and in Portfolios of the Trust, and all other persons investing in the Portfolios, including Qualified Plans, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable Federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities: (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any series are being managed; (e) a difference in voting instructions given by variable annuity contract owners, variable life insurance contract owners and the trustees of a Qualified Plan that does not provide voting rights to its investors (or Qualified Plan participants if they have the right to give instructions under the Qualified Plan governing documents); (f) a decision by a Participating Insurance Company to disregard the voting instructions of contract owners and (g) if applicable, a decision by a Qualified Plan to disregard the voting instructions of plan participants.

3. In the event that a Qualified Plan ever should become an owner of 10 percent or more of the assets of a Portfolio of the Trust, Applicants will require the Qualified Plan to execute a participation agreement with the Trust that provides appropriate protection consistent with the representations in the Application. In connection with the initial purchase of Trust shares, the Qualified Plan shareholder will be required to acknowledge this condition in its application to purchase the shares.

4. Participating Insurance Companies, the responsible advisors, and any Qualified Plan that executes a Trust participation agreement upon becoming an owner of 10% or more of the assets of a Portfolio of the Trust (collectively, the ''Participating Entities'') will report any potential or existing conflicts to the Board. Participating Entities will be responsible for assisting the board in carrying out its responsibilities by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever contract owner voting instructions are disregarded and, if pass-through voting is applicable, an obligation by each Participating Entity to inform the Board whenever Plan Participant voting instructions are disregarded. The responsibility to report such information and any conflicts to the Board and to assist the Board will be a contractual obligation of all Participating Insurance Companies and Qualified Plans investing in the Trust; those responsibilities will be carried out with a view only to the interests of the contract owners and participants under the Qualified Plans.

5. If it is determined by a majority of the Board, or a majority of the disinterested members of the Board, that a material irreconcilable conflict exists, then the relevant Participating Insurance Companies and Qualified Plans, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested directors, as the case may be), shall take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, up to and including: (a) Withdrawing the assets allocable to some or all of the Separate Accounts from the affected Portfolio of the Trust and reinvesting such assets in a different investment medium, including another Portfolio, or submitting the question as to whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity contract owners or variable life insurance contract owners of one or

more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; (b) withdrawing the assets allocable to some or all of the Qualified Plans from the affected Portfolio of the Trust and reinvesting such assets in a different investment medium, including another Portfolio of the Trust; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a decision by a Participating Insurance Company to disregard contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, then the Participating Insurance Company may be required, at the Trust's election, to withdraw the Participating Insurance Company's Separate Account's investment in the Trust and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies and all Qualified Plans under their agreements governing participation in the Trust and those responsibilities will be carried out with a view only to the interests of contract owners and participants in the Qualified Plans.

For purposes of this Condition 5, a majority of the disinterested members of the Board shall determine whether or not any proposed action adequately remedies any material irreconcilable conflict, but, in no event, will the Trust or its investment advisor be required to establish a new funding medium for any Variable Contract. No Participating Insurance Company shall be required by this Condition 5 to establish a new funding medium for any Variable Contract if any offer to do so has been declined by vote of a majority of the contract owners materially adversely affected by the material irreconcilable conflict. No Qualified Plan will be required by this Condition 5 to establish a new funding medium for such Qualified Plan if (a) an offer to do so has been declined by vote of a majority of plan participants materially and adversely affected by the irreconcilable material conflict or (b) pursuant to governing Qualified Plan documents and applicable law, the Qualified Plan makes such decision without a plan participant vote.

6. A Board's determination of the existence of a material irreconcilable conflict and its implications shall be made known in writing promptly to all Participating Entities.

7. Participating Insurance Companies will provide pass-through voting privileges to all owners of Variable Contracts so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable annuity and variable life insurance owners. As to variable annuity and variable life insurance contracts that participate in a Portfolio through unregistered separate accounts, pass-through voting privileges will be extended to the owners of such contracts to the extent granted by the issuing insurance company. Participating Insurance Companies will be responsible for assuring that each of their registered Separate Accounts participating in a Portfolio calculate voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other Separate Accounts investing in a Portfolio will be a contractual obligation of Participating Insurance Companies under their agreements governing participation in a Portfolio. Each Participating Insurance Company will vote Trust shares held by a Separate Account for which it has not received voting instructions, as well as shares attributable to it, in the same proportion as it votes shares for which it has received voting instructions. Each Qualified Plan will vote in accordance with applicable law and governing plan documents.

8. The Trust will comply with all provisions of the 1940 Act requiring voting by shareholders (which for these purposes, shall be the persons having a voting interest in the Trust) and, in particular, the Trust will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although the Trust is not one of the trusts described in the Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, the Trust will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors and with whatever rules the Commission may promulgate with respect thereto.

9. The Trust will disclose in its prospectus that (a) the Trust is intended to be a funding vehicle for all types of variable annuity and variable life insurance contracts offered by various insurance companies and for certain qualified pension and retirement plans, (b) material irreconcilable conflicts possibly could arise, and (c) the Trust's Board will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflict. The Trust will notify all Participating Insurance Companies and Qualified Plans that similar disclosure may be appropriate in Separate Account prospectuses and Qualified Plan disclosure documents.

10. If, and to the extent that, Rule 6e–2 and Rule 6e–3(T) under the 1940 Act are amended, or Rule 6e–3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the Order requested in this Application, then the Trust and/or the Participating Entities, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as may be amended, and Rule 6e–3, as may be adopted, to the extent such rules are applicable.

11. All reports of potential or existing conflicts received by the Board, and all Board action with regard to (a) determining the existence of a conflict, (b) notifying Participation Entities of a conflict, and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

12. Each Participating Insurance Company will maintain at its home office available to the Commission a list of its officers, directors and employees who participate directly in the management and administration of any separate account organized as a Unit Investment Trust of any Fund. These individuals will continue to be subject to the automatic disqualification provisions of Section 9(a).

13. No less often than annually, each Participating Insurance Company, Qualified Plan, and/or the investment advisor will submit to the Boards such reports, materials or data as each Board may reasonably request so that the Boards may carry out fully the obligations imposed upon them by the conditions contained in the application. These reports, materials, and data will be submitted more frequently if deemed appropriate by the relevant Board. The obligations of a Participating Insurance Company, Qualified Plan, and/or

investment advisor to provide these reports, materials and data to the Boards will be contractual obligations of each Participating Insurance Company, Qualified Plan, and investment advisor under the participation agreements.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2603 Filed 2–3–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23672]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

January 29, 1999.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of January, 1999. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., N.W., 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 February 23, 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, N.W., Washington, DC 20549. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, Mail Stop 5–6, 450 Fifth Street, N.W., Washington, DC 20549.

Old Mutual Equity Growth Assets South Africa Fund [File No. 811–9136]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant's portfolio consisted solely of its beneficial interest in Old Mutual South Africa Equity Trust. On September 18, 1998, all remaining shareholders of applicant redeemed their shares at net asset value. Expenses incurred in connection with the liquidation totaled approximately $40,000, and were paid by Old Mutual Fund Holdings (Bermuda) Limited.

Filing Dates: The application was filed on September 29, 1998, and amended on December 17, 1998.

Applicant's Address: Washington Mall Phase II, 4th Floor, 22 Church Street, Hamilton HM11, Bermuda.

Hyperion 1997 Term Trust, Inc. [File No. 811–7072]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 1, 1997, applicant made a liquidating distribution of substantially all of its assets to shareholders at net asset value. At the time of filing the application, applicant had 151 registered shareholder accounts that had not surrendered their shares. Applicant's former custodian, State Street Bank & Trust Company, is holding funds representing the aggregate liquidation value of applicant's remaining shares. Expenses incurred in connection with the liquidation totaled approximately $1,666,650, of which applicant bore $1,614,789, and applicant's investment adviser bore the remaining $51,861.

Filing Dates: The application was filed on October 21, 1998, and amended on December 29, 1998.

Applicant's Address: One Liberty Plaza, 165 Broadway, New York, New York 10006.

New York Life Fund, Inc. [File No. 811–1998]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Except for shares issued to New York Life Insurance Company (''New York Life''), the Registrant's parent company and initial shareholder, Applicant's shares were held solely by New York Life Separate Accounts N and Q (''Separate Accounts N and Q''), as an investment vehicle for variable annuity contracts issued by New York Life. In May 1995, New York Life commenced a redemption program offering contract holders of the individual variable annuity contracts issued by New York Life, through Separate Accounts N and Q, an option to either surrender their contracts for the accumulated cash value or exchange their contracts for a fixed or variable annuity product offered by New York Life Insurance and Annuity Corporation, a wholly owned subsidiary of New York Life. As of November 17, 1997, all of the contract holders had, pursuant to the redemption offer, either surrendered or exchange their contracts. All legal, accounting and other expenses incurred in connection with the liquidation have been or will be borne by New York Life or a subsidiary thereof.

Filing Dates: The application was filed on November 10, 1998 and amended on January 15, 1998.

Appplicant's Address: 51 Madison Avenue, New York, NY 10010.

New York Life Separate Account N [File No. 811–1999]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. In May 1995, New York Life Insurance Company (''New York Life'') commenced a redemption program offering contract holders of the individual variable annuity contracts issued by New York Life through the Applicant an option to either surrender their contract for the accumulated cash value or exchange their contract for a fixed or variable annuity product offered by New York Life Insurance and Annuity Corporation, a wholly owned subsidiary of New York Life. As of November 17, 1997, all of the contract holders had, pursuant to the redemption offer, either surrendered or exchanged their contracts. All legal, accounting, and other expenses incurred in connection with the liquidation have been or will be borne by New York Life or a subsidiary thereof.

Filing Date: The application was filed on November 10, 1998.

Applicant's Address: 51 Madison Avenue, New York, NY 10010.

New York Life Separate Account Q [File No. 811–2000]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. In May 1995, New York Life Insurance Company (''New York Life'') commenced a redemption program offering contract holders of the individual variable annuity contracts issued by New York Life through the Applicant an option to either surrender their contract for the accumulated cash value or exchange their contract for a fixed or variable annuity product offered by New York Life Insurance and Annuity Corporation, a wholly owned subsidiary of New York Life. As of November 17, 1997, all of the contract holders had, pursuant to the redemption offer, either surrendered or exchanged their contracts. All legal, accounting, and other expenses incurred in connection with the liquidation have been or will be borne by New York Life or a subsidiary thereof.

Filing Date: The application was filed on November 10, 1998.

Applicant's Address: 51 Madison Avenue, New York, NY 10010.

Oppenheimer Adjustable Rate Preferred Fund [File No. 811–4045] Oppenheimer Global Securities Fund [File 811–6002]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. Neither applicant has ever made a public offering of its securities, nor does it propose to make a public offering or engage in business of any kind.

Filing Date: Each application was filed on January 21, 1999.

Applicants' Addresses: Oppenheimer Adjustable Rate Preferred Fund, 6801 South Tucson Way, Englewood, Colorado 80112; Oppenheimer Global Securities Fund, Two World Trade Center, New York, New York 10048–0203.

The Analytic Series Fund [File No. 811–7366] and Analytic Optioned Equity Fund, Inc. [File No. 811–2807]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On July 27, 1998, The Analytic Series Fund's three portfolios transferred their assets to corresponding portfolios of PBHG Advisor Funds, Inc. (''PBHG Funds'') in exchange for shares of the corresponding PBHG Fund based on net asset value. On August 31, 1998, Analytic Optioned Equity Fund, Inc. transferred its assets to the PBHG Advisor Defensive Equity Fund series of PBHG Funds in exchange for shares of the PBHG Fund series based on net asset value. Expenses of approximately $110,789 and $89,848, respectively, were incurred in connection with each reorganization. These expenses were shared by Analytic-TSA Global Assets Management, Inc., investment adviser to each applicant, and Pilgrim Baxter & Associates, Ltd., investment adviser to the PBHG Funds.

Filing Date: Each application was filed on January 6, 1999.

Applicants' Address: 700 South Flower Street, Suite 2400, Los Angeles, California 90017.

Bond Portfolio for Endowments, Inc. [File No. 811–2210]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 31, 1998, applicant transferred all of its assets and liabilities to the Bond Portfolio, a series of Endowments, in exchange for shares of the Bond Portfolio based on the relative net asset values per share. Applicant incurred approximately $35,000 in expenses in connection with the reorganization.

Filing Date: The application was filed on December 23, 1998.

Applicant's Address: P.O. Box 7650, One Market, Steuart Tower, San Francisco, California 94120.

Warburg, Pincus Strategic Value Fund, Inc. [File No. 811–7929]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 14, 1998, applicant made a liquidating distribution to its shareholders at the net asset value per share. Expenses of approximately $40,000 incurred in connection with the liquidation were paid by Warburg Pincus Asset Management, Inc., applicant's investment adviser.

Filing Date: The application was filed on December 11, 1998.

Applicant's Address: 300 East Lombard Street, Baltimore, Maryland 21202.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2660 Filed 2–3–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41003; File No. 600–31]

Self-Regulatory Organizations; Thomson Financial Technology Services, Inc.; Notice of Filing of Application for Exemption From Registration as a Clearing Agency

January 29, 1999.

I. Introduction

On January 11, 1999, Thomson Financial Technology Services, Inc. (TFTS)[1] filed with the Securities and Exchange Commission (Commission) an application on Form CA–1 for exemption from registration as a clearing agency pursuant to Section 17A of the Securities Exchange Act of 1934 (Exchange Act)[2] and Rule 17Ab2–1 thereunder.[3] TFTS is requesting an exemption from clearing agency registration in connection with its proposal to offer two services: an electronic trade confirmation (ETC) service and a central matching service. The Commission is publishing this notice to solicit comments on the exemption request.[4]

II. Background

A. Confirmation and Affirmation of Institutional Securities Transactions

The confirmation/affirmation process is used to communicate the terms and acknowledgment of trades among institutional customers, broker-dealers, and custodian banks. Securities trades for institutional customers generally involve greater sums of money, greater amounts of securities, and more participants than trades for retail customers. As a result, there are more steps between order entry and final settlement in an institutional transaction than in a retail transaction.

Typically, in an institutional trade, the institution's investment manager places an order with a broker-dealer. After the broker-dealer executes the trade, it advises the institution of the execution details. The institution then informs the broker-dealer how the trade should be allocated among its accounts. The broker-dealer then sends confirmations of the allocated trades back to the institution. The institution reviews the confirmations, and if they are accurate, the institution affirms the trade with the broker-dealer by sending an affirmed confirmation. Generally, the parties involved in an institutional trade use an ETC service to transmit the messages necessary to confirm and affirm the trade,[5] The trade is then ready

[1] TFTS is a wholly owned subsidiary of Thomson Information Services, Inc., which is indirectly owned by the Thomson Corporation. The Thomson Corporation is a public company incorporated under the laws of Ontario, Canada.

[2] 15 U.S.C. 78q–1.

[3] 17 CFR 240.17Ab2–1.

[4] Copies of TFTS's Form CA–1 are available for inspection and copying at the Commission's Public Reference Room in File No. 600–31. TFTS also submitted a document entitled ''Application for Exemptive Order'' which we do not consider part of the Form CA–1.

[5] Currently, the rules of certain self-regulatory organizations (SROs) require their broker-dealer members to use the facilities of a registered clearing agency for the electronic confirmation and affirmation of transactions where the broker-dealer provides delivery-versus-payment (DVP) or receive-versus-payment (RVP) privileges to its customer. *See, e.g.,* Municipal Securities Rulemaking Board (MSRB) Rule G–15(d)(ii); National Association of Securities Dealers (NASD) Rule 11860(a)(5); and New York Stock Exchange (NYSE) Rule 387(a)(5). Broker-dealers generally extend DVP and RVP privileges only to their institutional customers. As a practical matter, the SROs' confirmation rules require broker-dealers to use The Depository Trust Company's (DTC) Institutional Delivery (ID) system because it is the only ETC service offered by a registered clearing agency.

The Commission has published notice of proposed rule changes by the MSRB, NASD, and NYSE under which broker-dealers would be able to use ETC services provided by an entity that has received an exemption from clearing agency registration to provide confirmation and affirmation services. *See* Securities Exchange Act Release Nos.

Continued

for the settlement process (*i.e.,* the transfer of securities and money for completion of the trade).

B. The Commission's Interpretive Release on Matching

The development of ''matching services'' has been a recent step in the evolution of the confirmation/affirmation process. The term matching in this context describes a process in which an intermediary compares the broker-dealer's trade data submission with the institution's allocation instructions to determine whether the two descriptions agree. If the trade data and allocation instructions match, the intermediary produces an affirmed confirmation. Matching services eliminate the separate steps of producing a confirmation from the trade data, review of the confirmation by the institution, and issuance of an affirmed confirmation by the institution.[6]

On April 6, 1998, we issued an interpretive release regarding matching services (Matching Release).[7] In the Matching Release, we concluded that an entity that provides matching services as an intermediary between broker-dealers and institutional customers is a clearing agency within the meaning of Section 3(a)(23) of the Exchange Act[8] and is subject to the registration requirements of Section 17A of the Exchange Act.[9]

III. TFTS's Request for Exemption

A. TFTS's Proposed Service

TFTS would offer two types of services under an exemption from clearing agency registration. First, TFTS would offer an ETC service that would transmit messages among broker-dealers, customers, and custodian banks regarding the terms of a trade executed for the customer. As noted above, ETC services are usually used to confirm and affirm securities trades for institutional investors. Second, TFTS would offer a central matching service under which it would act as an intermediary in the confirmation/affirmation process to compare a broker-dealer's trade data with a customer's allocation instructions to produce an affirmed confirmation.

All electronic messages that are sent through TFTS's systems will originate at the sender's (*i.e.,* the broker-dealer or the customer) computer terminal and will be routed through TFTS's data center. TFTS's data center will copy and store the data that passes through it. In its Form CA–1, TFTS represents that it will not perform other functions of a clearing agency such as net settlement, maintaining a balance of open positions between buyers and sellers, or marking securities to the market.[10]

TFTS has agreed to certain undertakings as a condition of obtaining an exemption from clearing agency registration:

(1) To make available to the Commission prior to the commercial operation of its central matching service an audit report that addresses all the areas discussed in the Commission's Automation Review Policies (ARPs);[11]

(2) To make available to the Commission on an annual basis (beginning in the central matching service's second year of operation) reports prepared by competent, independent audit personnel that are generated in accordance with the annual risk assessment of the areas set forth in the ARPs, and field work associated therewith;

(3) To provide the Commission with twenty business days' advance notice of any material changes that TFTS makes to its matching service, provided that such changes shall not be subject to regulatory approval;

(4) To provide the Commission with prompt notification of significant systems outages, to be defined as outages lasting more than thirty minutes;

(5) To respond to the Commission's requests for additional information relating to TFTS's matching service and to provide access to the Commission to conduct on-site inspections of all facilities (including automated systems and systems environment), records, and personnel related to the matching service, provided that such requests for information shall be made and such inspections shall be conducted solely for the purpose of reviewing the matching service's operations and compliance with the federal securities laws and the terms and conditions of TFTS's exemptive order;

(6) To supply the Commission or its designee with periodic reports regarding the affirmation rates for depository-eligible transactions that settle in the United States effected by institutional investors that utilize TFTS's matching service;

(7) To preserve a copy or record of all trade details, allocation instructions, central trade matching results, reports and notices sent to customers, reports regarding affirmation rates that are sent to the Commission or its designee, and any complaint received from a customer, all of which pertain to the operation of the matching service, for a period of not less than five years, the first two years in an easily accessible place; and

(8) To develop fair and reasonable linkages between the matching service and the Depository Trust Company and other central matching services regulated by the Commission.

B. Statutory Standards

Section 17A(b)(1) of the Exchange Act requires all clearing agencies to register with us before performing any of the functions of a clearing agency.[12] However, Section 17A(b)(1) also states that, upon our own motion or upon a clearing agency's application, we may conditionally or unconditionally exempt the clearing agency from any provisions of Section 17A or the rules or regulations thereunder if we find that such exemption is consistent with the public interest, the protection of investors, and the purposes of Section 17A. TFTS believes that the undertakings it has proposed as a condition of obtaining an exemption from clearing agency registration will allow it to protect the public interest and strike the appropriate balance between safety and soundness and the need to foster efficiency, competition, and capital formation.

We have exercised our authority to conditionally exempt an applicant from

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39830 (April 6, 1998), 63 FR 18060 [File No. SR–NYSE–98–07]; 39831 (April 6, 1998), 63 FR 18057 [File No. SR–NASD–98–20]; and 39833 (April 6, 1998), 63 FR 18055 [File No. SR–MSRB–98–06] The Commission expects to act on the proposed rule changes in the near future.

[6] The Commission has approved a proposed rule change filed by DTC that allows DTC to provide matching services. Securities Exchange Act Release No. 39832 (April 6, 1998), 63 FR 18062 [File No. SR–DTC–95–23]. Currently, only DTC offers a matching service where it acts as an intermediary between broker-dealers and institutional customers for U.S. trades.

[7] Securities Exchange Act Release No. 39829 (April 6, 1998), 63 FR 17943 [File No. S7–10–98]. The Matching Release contains a detailed description of the confirmation/affirmation process as it currently operates through DTC's ID system.

[8] 15 U.S.C. 78c(a)(23). Section 3(a)(23) defines the term clearing agency as, among other things. [A] person who acts as an intermediary in making payments or deliveries or both in connection with transactions in securities or who provides facilities for comparison of data respecting the terms of settlement of securities transactions, to reduce the number of settlements of securities transactions, or for the allocation of securities settlement responsibilities.

[9] Specifically, the Commission concluded that matching constitutes ''comparison of data respecting the terms of settlement of securities transactions.'' Exhibit S to TFTS's Form CA–1 contains a statement that it disagrees with the Matching Release's conclusion. In addition, on June 4, 1998, Thomson Information Services, Inc. (TIS), an affiliate of TFTS, filed a petition with the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) to review and set aside the part of the Matching Release that concludes that broker-to-customer matching is a clearing agency function under the Exchange Act.

In a settlement agreement with the Commission dated December 22, 1998, TIS stated that it would withdraw its petition before the D.C. Circuit if the Commission approved TFTS's application for exemption from clearing agency registration within 120 days of the filing of its application. Our consideration of TFTS's application is consistent with the statement in the Matching Release that matching is a clearing agency function and that we would consider granting matching services conditional exemptions from clearing agency registration. Our consideration of TFTS's application is independent of and will not be influenced by TIS's petition to the D.C. Circuit.

[10] Exhibit J to TFTS's Form CA–1.

[11] Securities Exchange Act Release Nos. 27445 (November 16, 1989), 54 FR 48703; and 29185 (May 9, 1991), 56 FR 22490.

[12] 15 U.S.C. 78q–1(b)(1).

clearing agency registration on three prior occasions.[13] In those cases, the applicants requesting exemption from clearing agency registration were required to meet standards substantially similar to those required of registrants under Section 17A in order to assure that the fundamental goals of that section were furthered (*i.e.*, safety and soundness of the national clearance and settlement system).

In the Matching Release, we stated that an entity that limited its clearing agency functions to providing matching services might not have to be subject to the full range of clearing agency regulation. In addition, we stated that an entity seeking an exemption from clearing agency registration for matching would be required to: (1) provide us with information on its matching services and notice of material changes to its matching services; (2) establish an electronic link to a registered clearing agency that provides for the settlement of its matched trades; (3) allow us to inspect its facilities and records; and (4) make periodic disclosures to us regarding its operations.

TFTS's matching service would be the only clearing agency function that it would perform under an exemptive order. While we believe that TFTS's matching services could have a significant impact on the national clearance and settlement system, we do not believe that TFTS's matching services raise all of the concerns raised by an entity that performs a wider range of clearing agency functions. TFTS represents in its Form CA–1 that as a condition of its exemption it will comply with the conditions suggested by the Commission in the Matching Release. Therefore, we believe that it may not be necessary to require TFTS to satisfy all of the standards required of registrants under Section 17A.[14]

We anticipate that in addition to considering the public interest and the protection of investors, the primary factor in our consideration of TFTS's Application will be whether TFTS is so organized and has the capacity to be able to facilitate prompt and accurate matching services subject to the specific conditions that it has proposed.[15] In particular, TFTS has represented that, among other things, it will provide us with (1) an independent audit report that addresses all the areas discussed in the Commission's ARPs prior to beginning commercial operations and annually thereafter, (2) on-site inspection rights, and (3) a current balance sheet and income statement prior to beginning operations.[16]

We expect that any exemption from clearing agency registration for TFTS would contain all of the conditions that TFTS has proposed in its Form CA–1. We request comment on whether these conditions are sufficient to promote the purposes of Section 17A and to allow us to adequately monitor the effects of TFTS's proposed activities on the national system for the clearance and settlement of securities transactions. In addition, we invite commenters to address whether granting TFTS an exemption from clearing agency registration would impose any burden on competition that is not necessary or appropriate in furtherance of the Exchange Act.

IV. Solicitation of Comments

Comments are due by March 8, 1999. These comments will be considered in deciding whether to grant TFTS's application for exemption from registration as a clearing agency. Six copies of the comments should be filed with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. 600–31; this file number should be used on the subject line if E-mail is used. Copies of the application and all written comments will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2661 Filed 2–3–99; 8:45 am]

BILLING CODE 8010–01–M

[13] Securities Exchange Act Release Nos. 36573 (December 12, 1995 60 FR 65076 (order approving application for exemption from clearing agency registration for the Clearing Corporation for Options and Securities); 38328 (February 24, 1997), 62 FR 9225 (order approving application for exemption from clearing agency registration for Cedel Bank); and 39643 (February 11, 1998), 63 FR 8232 (order approving application for exemption from clearing agency registration by Morgan Guaranty Trust Company of New York, Brussels Office, as operator of the Euroclear System).

[14] For example, TFTS's Form CA–1 (1) represents that TFTS will not handle funds or securities and (2) states that TFTS will not impose prohibitions or limit access to its service by potential customers but that it might terminate a subscription for failure to pay fees. In addition, TFTS will provide us with a current balance sheet and income statement before beginning operations which will enable us to assess TFTS's financial capability.

[15] *See* Section 17A(b)(3)(A) of the Exchange Act, 15 U.S.C. 78q–1(b)(3)(A).

[16] *See* Section III.A, *supra.*

[17] 17 CFR 200.30–3(a0(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40995; File No. SR–CBOE–99–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Listing of Options on the Dow Jones E*Commerce Index

January 28, 1999.

Pursuant to Section 19(b)(1) of the Securities Act of 1934,[1] notice is hereby given that on January 28, 1999, the Chicago Board Options Exchange, Incorporated (''CBOE'' 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 CBOE. 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 Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') hereby proposes to amend certain of its rules to provide for the listing and trading on the Exchange of options on the Dow Jones E*Commerce Index (''E*Commerce Index'' or ''Index''), a narrow-based Index designed by Dow Jones & Company, Inc. (''Dow Jones™'').[2] The E*Commere Index is a modified capitalization-weighted, cash-settled index with European-style exercise.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] Dow Jones & Company, Inc. (''Dow Jones'') has licensed ''Dow Jones™,''and ''Dow Jones E*Commerce Index'' for use for certain purposes to the Chicago Board Options Exchange, Incorporated. CBOE's options based on the Dow Jones E*Commerce Index are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such products.

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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled, European-style stock index options on the Dow Jones E*Commerce Index. The Index is a modified capitalization-weighted index of 15 of the largest, most liquid U.S. Internet commerce stocks. Internet commerce companies are involved in providing a good or service through an open network such as the Internet.

1. Purpose

Index Design

The E*Commerce Index has been designed to measure the performance of certain Internet commerce stocks. All of the stocks in the Index are U.S. securities and currently trade through the facilities of the National Association of Securities Dealers Automated Quotation System and are reported national market system securities. In addition, all of the stocks are ''reported securities'' as defined in Rule 11Aa3–1 under the Exchange Act.

The Exchange represents that in all but one respect, options on the E*Commerce Index meet the generic listing criteria for options on narrow-based indexes which may be filed with the Commission under Exchange Rule 24.2(b) as a stated policy, practice, or interpretation within the meaning of paragraph (3)(A) of subsection 19(b) of the Exchange Act. The only variation is that the Index is calculated using a modified capitalization-weighting methodology.

Each of the stocks in the E*Commerce Index has a market capitalization in excess of $75 million. Specifically, the stocks comprising the Index range in capitalization from $378.9 million to $26.15 billion as of January 21, 1999. The total capitalization as of that date was $76.50 billion. The mean capitalization was $5.10 billion. The median capitalization was $1.94 billion.

The CBOE indicates that all but two of the component stocks meet the trading volume criteria set forth in paragraph (b)(3) of CBOE Rule 24.2. E-Bay, Inc. does not meet the criteria of CBOE Rule 24.2(b)(e) because it was the subject of an initial public offering on September 24, 1998. Since that time, E-Bay, Inc. has average 1.24 million shares per day and it is expected that the company will exceed the trading volume criteria in early February 1999. Additionally, Ticketmaster On-line CitySearch does not meet the volume criteria because it was the subject of a spin-off on December 3, 1998. However, the Exchange represents that the company currently satisfies the requirements of CBOE Rule 5.3 applicable to individual underlying securities and is the subject of options trading. Furthermore, since the company was spun off, it has averaged 1.5 million shares per day. The Exchange represents that each of the component stocks in the E*Commerce Index has had monthly trading volume in excess of one million shares over the six month period through January 1999. The average monthly volume over the six-month period for the stocks in the Index ranged from a low of 8.3 million shares to a high of 292.5 million shares.

Currently, two of the fifteen stocks in the Index are not eligible for options trading. However, the CBOE represents that Cyberian Outpost, Inc. will be eligible on January 28, 1999 and Geocities will be eligible on February 8, 1999. Therefore, each stock in the Index will be eligible for options trading before the anticipated start of options trading.

As the initial re-balancing on January 4, 1999, the largest stock accounted for 10.00% of the total weight of the Index, while the smallest accounted for 1.43%. The top five stocks in the Index accounted for 50.00% of the total weight of the Index. Accordingly, the Exchange's generic listing standards for narrow based indexes are more than met with respect to the criteria of market capitalization, weighting constraints and trading volume.

Calculation and Dissemination of Index Value

The E*Commerce Index is calculated on a ''modified capitalization-weighted'' method. This method is a hybrid between equal weighting (which may pose liquidity concerns for smaller-cap stocks) and normal-cap weighting (which may result in two or three stocks dominating the index's performance). Under this method, the maximum weight for any stock in the Index will be set to 10%, or ''capped,'' on the quarterly rebalancing date. The weight of all the remaining stocks shall be market capitalization weighted. Thus, the weights of these remaining stocks are not ''capped.''

For stocks which are not ''capped,'' index shares will equal the company's outstanding common shares. For stocks that are ''capped,'' index shares will equal its maximum weight, multiplied by the adjusted total market capitalization of the Index, divided by the stock's closing price on the rebalancing date. The index's adjusted total market capitalization is the total outstanding market capitalization adjusted to reflect the combined weight of all of the ''capped'' stocks.

The level of the Index reflects the adjusted total capitalization of the component stocks divided by the Index Divisor. The Index divisor was initially calculated to yield a benchmark level of 200.00 at the close of trading on January 4, 1999. The Index divisor will be adjusted as needed to ensure continuity whenever there are additions or deletions from an index, share changes, or adjustments to a component's price to reflect rights offerings, spinoffs, special cash dividends, etc.

The values of the Index will be calculated by Dow Jones or its designee and will be disseminated to market information vendors at 15-second intervals during regular CBOE trading hours via the Options Price Reporting Authority or the Consolidated Tape Association. If a component stock is not currently being traded, the most recent price at which the stock traded will be used in the Index calculation. The Index had a closing level of 259.43 on January 21, 1999.

Index Maintenance

The CBOE represents that Dow Jones is responsible for maintenance of the E*Commerce Index. Index maintenance generally includes monitoring and completing the adjustments for company additions and deletions, stock splits, stock dividends (other than an ordinary cash dividend), and stock price adjustments due to company restructuring or spinoffs. If required, the Index Divisor will be adjusted to account for any of the above changes.

The Exchange represents that the Index will satisfy the maintenance criteria set forth in CBOE Rule 24.2(c). The Index will be re-balanced at the close of business on expiration Friday on the March quarterly cycle. In addition, the number of Index components will not increase to more than 20 nor decrease to fewer than 10.

Component changes will be made such that 90% of the Index by weight and 80% of the total number of stocks in the index are eligible for options trading under CBOE Rule 5.3.

If the Index fails at any time to satisfy the maintenance criteria, the CBOE will immediately notify the Commission and will not open for trading any additional series of options on the Index, unless the continued listing of options has been approved by the Commission under Section 19(b)(2) of the Securities Exchange Act.

Index Options Trading

In addition to regular Index options, the Exchange may provide for the listing of long-term index option shares (''LEAPS®'') and reduced-value LEAPS on the Index. For reduced-value LEAPS, the underlying value would be computed at one-tenth of the Index level. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth. Exhibit C presents proposed contract specifications for the E*Commerce Index options.

Strike prices will be set to bracket the index in a minimum of 2½ point increments for strikes below 200 and 5 point increments above 200. The minimum tick size for series trading below $3 will be 1/16th and for series trading above $3 the minimum tick will be 1/8th. The trading hours for options on the Index will be from 8:30 a.m. to 3:02 p.m. Chicago time.

Exercise and Settlement

The CBOE proposes that options on the Index will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:02 p.m. (Chicago time) on the business day preceding the last day of trading in the component securities of the Index (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). The exercise settlement value of the Index at option expiration will be calculated by Dow Jones or its designee based on the opening prices of the component securities on the business day prior to expiration. If a stock fails to open for trading, the last available price on the stock will be used in the calculation of the index, as is done for currently listed indexes. When the last trading day is moved because of Exchange holidays (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of Index options at expiration will be determined at the opening of regular Thursday trading.

Surveillance

The Exchange will use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in Index options and Index LEAPS.

Position Limits

Options on the E*Commerce Index would be subject to the position limits for industry index options set forth in CBOE Rule 24.4A.

Exchange Rules Applicable

The Rules of Chapter XXIV will be applicable to options on the E*Commerce Index. Narrow-based margin rules will apply to the Index as set forth in CBOE Rule 24.11.

Capacity

CBOE believes it has the necessary systems capacity to support new series that would result from the introduction of options on the E*Commerce Index. CBOE has also been informed that the Options Price Reporting Authority also has the capacity to support the new series.

2. Basis

The proposed rule change is consistent with Section 6(b)[3] of the Act in general and furthers the objectives of Section 6(b)(5)[4] in particular in that it will permit trading in options based on the E*Commerce Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and thereby will provide investors with the ability to invest in options based on an additional index.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period 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 as to which the self-regulatory organization 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 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 in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR–CBOE–99–05 in the caption above and should be submitted by February 25, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2605 Filed 2–3–99; 8:45 am]

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[5] 17 CFR 200.30–3(a)(12).

[1] The Exchange initially filed this proposal on

[4] 15 U.S.C. 78f(b)(5).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40990; File No. SR–CHX–98–24]

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Order Approving a Proposed Rule Change Relation to the Exchange's Decorum Rules, Short Sales and Minor Rule Violation Plan

January 28, 1999.

On September 29, 1998,[1] the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend: (1) Interpretation and Policy .01 of Rule 3 of Article XII relating to the Exchange's Decorum Rules regarding repetitive administrative/executive messages; (2) Rule 17 of Article IX, to codify the existing requirement for members to comply with Rule 10a–1 under the Act (''Short Sale Rule''); and (3) Rule 9(h) of Article XII, to add certain rules and policies to the Exchange's Minor Rule Violation Plan. Notice of the proposed rule change appeared in the **Federal Register** on December 22, 1998.[4] The Commission received no comment letters concerning the proposed rule change. This order approves the proposed rule change.

First, the Exchange proposed to amend the list of Class B violations set forth under Rule 3, Article XII of the Exchange's Decorum Rules to include repetitive administrative execution messages sent over the Intermarket Trading System (''ITS'') or the Midwest Automated Execution System (''MAX'') that are inappropriate or unnecessary. Additionally, the Exchange proposed to include these violations as Class B violations for purposes of the Minor Rule Violation Plan and proposed to retain the existing recommended fines.

Second, the Exchange proposed to codify the requirement for members to comply with the Short Sale Rule. Codifying the Short Sale Rule within the Exchange rules will allow the Exchange to assess fines for violation of this rule under its Minor Rule Violation Plan in appropriate circumstances. If the violation is inadvertent or isolated, the Exchange may assess fines pursuant to the Minor Rule Violation Plan and not pursuant to the Exchange's formal disciplinary procedures.

Finally, the Exchange proposed to add certain rules and policies to its Minor Rule Violation Plan under Article XII, Rule 9. Specifically, the Exchange proposed to add violations of its rules relating to: (1) proprietry short sales by floor members (Article IX, Rule 17)(*e.g.,* failing to properly mark a short sale a short and executing a short sale at an inappropriate tick); (2) the issuance of pre-opening responses under the ITS Rules (Article XX, Rule 39) (*e.g.,* using DOT, Post Execution Reporting (''PER''), or any method other than ITS to send a pre-opening response); and (3) the failure of a specialist to adjust limit orders to the block price when MAX automatically executes limit orders at the limit price upon a price penetration in the primary market (Article XX, Rule 7.06 and related Rule 37(b)(6) of Article XX). The Exchange proposed that the recommended fines for the above violations be $100, $500 and $1,000 for the first, second, third, and subsequent violations, respectively, except for violations of the Short Sale Rule, where the recommended fines would be $500, $1,000, and $2,500 for the first, second, and third, and subsequent violations, respectively.[6]

The Commission believes the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder.[7] Specifically, the Commission believes that approval of the proposed rule change is consistent with Sections 6(b)(6)[8] and 6(b)(7)[9] of the Act. The proposal is consistent with the requirement of Sections 6(b)(6) and (b)(7) in that it provides fair procedures and guidelines that enable the Exchange to appropriately discipline its members and persons associated with members for violations of the rules of the exchange.

The Commission believes that amending the list of Class B violations set forth in the Exchange's Decorum Rules to include inappropriate messages will provide a fair procedure whereby member organizations can be properly sanctioned for these violations that are minor in nature. Moreover, the Commission believes that including the Short Sale Rule within the rules of the Exchange and imposing fines for violations of the Short Sale Rule under its Minor Rule Violation Plan provide a fair procedure for the disciplining of members and persons associated with members, which is consistent with the Act. The Commission suggests that only those violations of the Short Sale Rule which are inadvertent or isolated be handled pursuant to the Exchange's Minor Rule Violation Plan. In the event that a violation occurs involving circumstances where more severe sanctions would be warranted, the Commission believes the Exhange should address them by taking a formal disciplinary proceeding.[10]

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[1] The Exchange initially filed this proposal on September 29, 1998. However, on December 2, 1998, the Exchange filed Amendment No. 1 to provide an example of an ''inadvertent'' violation and to increase the recommended fines for short sale violations. *See* Letter from Patricia L. Levy, Senior Vice President and General Counsel, the Chicago Stock Exchange, Inc., to Mignon McLemore, Division of Market Regulation, SEC, dated December 1, 1998.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 40793 (December 15, 1998), 63 FR 70820 (December 22, 1998).

[5] According to the CHX, an inadvertent violation of the Short Sale Rule might occur, for example, if a specialist that is long 1,000 shares of a security sends an order to sell 1,000 shares in that security to the New York Stock Exchange (''NYSE'') via an NYSE Designated Order Turnaround (''DOT'') machine. Because a specialist's inventory is not automatically updated to reflect executions over a DOT machine (unlike executions on the CHX or via ITS which are automatically reflected in a specialist's inventory on a real-time basis), it is possible that a specialist may either forget about the DOT order, or may be late in manually updating his inventory position to reflect the sale via DOT. In either event, the specialist's inventory at that time would not reflect that the specialist is now ''flat'' rather than ''long'' the security. If the specialist then marks his next sale as ''long'' rather than properly marking the order as ''short,'' it might be because the specialist merely looked at his inventory position and did not take the DOT order into account in determining whether he was long or short. While this would still be a violation of the Short Sale Rule, depending on the totality of the facts (*e.g.,* whether this is isolated or part of a larger fraud, or if other unusual circumstances existed, etc.) in certain circumstances, this violation might be considered an ''inadvertent'' violation that is appropriate for the minor rule violation plan. *See* Amendment No. 1, *supra* note 3.

[6] The Commission staff recommended that the Exhcange's fines for Short Sale Rule violations be commensurate with the fine schedules of other exchanges. Hence, the fines for violation of this rule were increased. *See* Amendment No. 1 *supra* note 1.

[7] The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. By classifying certain messages as a violation of the Exchange's Decorum Rules, the proposal should enhance efficiency by eliminating unnecessary communications which could burden computer capacity. Codifying the Short Sale Rule in the Exchange's rules should enhance competition by preventing market manipulation in securities. 15 U.S.C. 78c(f).

[8] Section 6(b)(6) requires the Commission to determine that the rules of the exchange provide that its members and persons associated with members shall be appropriately disciplined for violating the federal securities laws or the rules of the exchange by fine or other fitting sanction. 15 U.S.C. 78f(b)(6).

[9] Section 6(b)(7) requires the Commission to determine that the rules of the exchange provide a fair procedure for disciplining its members and persons associated with members. 15 U.S.C. 78(b)(7).

[10] The Commission expects that the CHX would err on the side of caution in disposing of violations under the Minor Rule Violation Plan. For example, the Commission expects that the CHX would not

The Commission also finds that the additional rules and policies added to the Minor Rule Violation Plan are objective in nature and easily verifiable. Thus, these rules and policies qualify for the less labor intensive and costly disciplinary procedure. The Commission notes that inclusion of these additional rules and policies under the Minor Rule Violation Plan should make the Exchange's disciplinary system more efficient in prosecuting violations of these rules.

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with Sections 6(b)(6) and 6(b)(7).

It is therefore ordered, pursuant to Section 19(b)(2) [11] of the Act, that the proposed rule change (SR–CHX–98–24), is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2606 Filed 2–3–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40991; File No. SR–Phlx–98–45]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Proposing To Adopt New Rule 949 Respecting Purchase, Sale, Transfer, and Posting of Membership Transactions

January 28, 1999.

I. Introduction

On November 5, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new Rule 949 respecting the purchase, sale, transfer, and posting of membership transactions. On December 14, 1998, the Phlx submitted an amendment to the proposed rule change.[3] The proposed rule change was published for comment in the **Federal Register** on December 23, 1998.[4] The Commission did not receive any comments on the proposal. This order approves the proposal, as amended.

II. Description of the Proposal

The Exchange proposed to adopt a new rule which codifies Exchange procedures concerning the purchase, sale, transfer and posting of membership transactions. The proposal also provides for privately negotiated sales and requests for transfer under certain specified circumstances.

If the transaction is between unrelated parties, the proposed rule provides that transactions must be posted, published, and be for monetary consideration between the posted bid and offer. The proposed rule also permits sales between related entities, but requires publication in the Secretary's bulletin. Thus, both members and non-members will have access to information regarding transfers of membership. Additionally, the proposal ensures that the Exchange will be protected by requiring that the proceeds of all sales be deposited with the Exchange to satisfy any outstanding charges owed by the member.

The proposed rule provides that bids and offers must be in writing and submitted to the Office of the Secretary of the Exchange by an approved applicant, member organization, or lessor. Bids and offers may only be made in $500 increments. Additionally, the proposed rule codifies an existing Exchange practice of requiring payment for a membership by certified or cashier's check payable to the Exchange. Furthermore, the rule specifies that the sale of a membership shall be deemed negotiated and contracted when the filed bid and offer are matched in price and confirmed by the Office of the Secretary. The sale is consummated upon receipt of payment from the purchaser for the purchase price and other associated membership initiation, transfer, and prorated dues and other fees.

The procedures for privately negotiated sales and requests for transfer are found in Section D of the proposed rule. This section provides for the posting of a deposit with the Exchange to cover potential claims that could be asserted pursuant to By-Law Article XV.[5] Only those transfers that conform with Section D will be processed for transfer and all other private sales will be void.

III. Discussion

The Commission believes that the proposed rule is consistent with the requirements of the Act and the rules and regulations thereunder [6] applicable to a national securities exchange. In particular, the Commission finds that the proposed rule is consistent with Section 6(b)(5) [7] of the Act. Section 6(b)(5) of the Act requires, among other things, that the rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

The proposed rule codifies procedures for the transfer of membership interests. By codifying these procedures, the Exchange should ensure the prompt and orderly transfer of membership interests. All bids and offers must be filed in writing with the Office of the Secretary which shall then match the bids and offers according to price and confirm the sale. In addition, all money exchanged must be filed with the Office of the Secretary to ensure that all outstanding debts and fees are paid. By implementing these procedures, the Exchange should protect the financial interests of both buyers and sellers of memberships and provide equity and openness to all who seek to purchase or sell a membership. Buyers should be confident that all outstanding liens are paid and sellers should be confident that the potential buyers have the means to pay their offering price.

Moreover, the new procedures should ensure fairness by providing a public market in which to transfer memberships. All persons interested in purchasing membership interests will have to follow the same procedures. These procedures, in general, protect investors and the public interest by providing a fair and open market for membership transactions. Therefore, the

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issue several cautionary letters before instituting the fines under the Minor Rule Violation Plan or aggregate multiple violations of the rules before instituting abbreviated disciplinary procedures, or, if necessary, a formal disciplinary proceeding.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Murray L. Ross, Vice President and Secretary, Phlx, to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, SEC, dated December 14, 1998 (''Amendment No. 1''). Amendment No. 1 corrected grammatical errors in the proposed rule language.

[4] Securities Exchange Act Release No. 40798 (December 16, 1998), 63 FR 71181.

[5] By-Law Article XV sets forth procedures for transferring memberships. Section 15–3 provides that proceeds are to be distributed according to a provided seniority list.

[6] In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. The proposed rule change should improve efficiency because it provides an orderly process by which memberships can be transferred. In addition, the proposed rule change should improve competition because the procedures provide notice to all interested parties about the current market for memberships which should improve bids and offers. 15 U.S.C. 78f(b)(7).

[7] 15 U.S.C. 78f(b)(5).

Commission believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2)[8] of the Act, that the proposed rule change, as amended, (SR–Phlx–98–45) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–2604 Filed 2–3–99; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3154]

State of Arkansas

As a result of the President's major disaster declaration on January 23, 1999, I find that Independence, Pulaski, St. Francis, Saline, and White Counties in the State of Arkansas constitute a disaster area due to damages caused by severe storms, tornadoes, and high winds beginning on January 21, 1999 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on March 23, 1999 and for economic injury until the close of business on October 25, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in the State of Arkansas may be filed until the specified date at the above location: Cleburne, Crittenden, Cross, Faulkner, Garland, Grant, Hot Spring, Izard, Jackson, Jefferson, Lawrence, Lee, Lonoke, Monroe, Perry, Prairie, Sharp, Stone, and Woodruff.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.375
Homeowners without credit available elsewhere	3.188
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 315412, and for economic injury the number is 9A9100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Date: January 26, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–2574 Filed 2–3–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 2963]

Notice of Meetings; International Telecommunications Advisory Committee

The Department of State announces meetings of the U.S. International Telecommunication Advisory Committee (ITAC) and its committees and Study Groups in the Telecommunication Standardization, Telecommunication Development Sectors, and CITEL ad hoc committee for February and March 1999. The purpose of the Committee and its Study Groups is to advise the Department on policy and technical issues with respect to the International Telecommunication Union and international telecommunication standardization and development. All meetings will be held at the Department of State, 2201 ''C'' Street, NW, Washington, DC.

The ITAC will meet from 9:30 to 1:00 on Wednesday, February 17 (Room 1105) and March 17 (Room 1207), 1999 to commence preparations for the ITU Council meeting in June 1999.

The ITAC–T National Committee will meet from 9:30 to 4:00 on February 11, 1999, March 10 and March 23, 1999 (all in Room 5951). The Telecommunication National Committee's agendas will cover continuing preparations for the ITU Telecommunication Sector Advisory Group (TSAG) meeting in April 1999.

ITAC–T Study Group A will meet from 9:30 to 4:00 on February 10, 1999 in Room 1207. The Study Group A agenda will cover debriefs from previous ITU Study Group 3 and Focus Group meetings and preparations for the next ITU Study Groups 2 & 3 meetings.

ITAC–T Study Group B will meet from 9:30 to 4:00 on February 24, 1999 in Room 5951. Study Group B will make preparations for ITU Study Group 4 meeting.

ITAC–T Study Group D will meet from 9:30 to 4:00 on March 9, 1999 to prepare for ITU Study Group 8 and 16 meetings.

The ITAC–D will meet from 2:00 to 4:00 in Room 4517 on February 25, 1999 to discuss post ITU Plenipotentiary activities for the ITU–D Sector, review progress of ITU–D Study Groups 1 and 2 activities, and prepare for the April 8–9, 1999 ITU–D Telecommunication Development Advisory Board meeting.

The ITAC ad hoc CITEL committee will meet March 24, 1999 in Room 4517 from 9:30 to 12:30 to prepare for the next Permanent Consultative Committee.I meeting.

Members of the general public may attend these meetings and join in the discussions, subject to the instructions of the Chair. Admission of public members will be limited to seating available. Entrance to the Department of State is controlled; people intending to attend ITAC, ITAC–T National Committee and Study Groups A & D meetings should send a fax to (202) 647–7403, (for Study Group B send a fax to (303) 497–5993), not later than 24 hours before the meeting. This fax should display the name of the meeting (ITAC, ITAC–T National Committee, Study Group and date of meeting), your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, U.S. passport, U.S. Government identification card. Enter from the ''C'' Street Main Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Dated: January 27, 1999.

Marian R. Gordon,

Information & Telecommunication Standardization, U.S. Department of State.

[FR Doc. 99–2577 Filed 2–3–99; 8:45 am]

BILLING CODE 4710–45–P

STATE DEPARTMENT

[Public Notice #2965]

Overseas Security Advisory Council (OSAC); Notice of Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on February 23, 24, and 25, at the Harbor

Beach Marriott in Fort Lauderdale, Florida. Pursuant to Section 10 (d) of the Federal Advisory Committee Act and 5 U.S.C. 552b[c][1] and [4], it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522–1003, phone: 202–663–0869.

Dated: January 21, 1999.

Peter E. Bergin,

Director of the Diplomatic Security Service.

[FR Doc. 99–2613 Filed 2–3–99; 8:45 am]

BILLING CODE 4710–24–P

TENNESSEE VALLEY AUTHORITY

Tellico Reservoir Land Management Plan, Blount, Loudon, and Monroe Counties, Tennessee

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Extension of comment period on notice of intent.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act. TVA previously announced (64 FR 2531–2532, January 14, 1999) that it will prepare an Environmental Impact Statement (EIS) on alternatives for management of certain TVA-owned lands surrounding Tellico Reservoir in Loudon, Monroe, and Blount Counties, Tennessee. Today TVA is announcing an extension of the comment period on the scope of the EIS.

DATES: The period for commenting on the scope of the EIS has been extended to March 5, 1999.

ADDRESSES: Written comments should be sent to Jon M. Loney, Manager, Environmental Management, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902–1499.

FOR FURTHER INFORMATION CONTACT: Harold M. Draper, NEPA Specialist, Environmental Management, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee 37902–1499; telephone (423) 632–6889 or e-mail hmdraper@tva.gov.

Dated: January 26, 1999.

Kathryn J. Jackson,

Executive Vice President, Resource Group.

[FR Doc. 99–2581 Filed 2–3–99; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (98–04–C–00–JST) To Impose and Use a Passenger Facility Charge (PFC) at Johnstown-Cambria County Airport, Johnstown, PA

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 a PFC at Johnstown-Cambria County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 8, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. John Carter, Project Manager, Harrisburg, Airports District Office, 3911 Hartzdale Dr., Suite 1, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Joseph McKelvey, Airport Manager for the Johnstown-Cambria County Airport Authority at the following address: 479 Airport Road, Suite #1, Johnstown, PA 15904.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Johnstown-Cambria County Airport authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: John Carter, Project Manager, Harrisburg, Airports District Office, 3911 Hartzdale Dr., Suite 1, Camp Hill, PA 17011. (717) 730–2832. 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 a PFC at Johnstown-Cambria County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 27, 1999, the FAA determined that the application to impose and use a PFC submitted by the Johnstown-Cambria County 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 May 4, 1999.

The following is a brief overview of the application.

Application number: 98–04–C–00–JST.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1999.

Proposed charge expiration date: February 1, 2004.

Total estimated PFC revenue: $496,540.00.

Brief description of proposed projects: Terminal Building Construction.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, #111, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Johnstown-Cambria County Airport Authority Office.

Issued in Jamaica, New York on January 28, 1999.

Thomas Felix,

Manager, Planning & Programming Branch, AEA–610, Eastern Region.

[FR Doc. 99–2658 Filed 2–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Erie County, NY

AGENCY: Federal Highway Administration, New York State Department of Transportation.

ACTION: Notice of intent.

SUMMARY: The Federal Highway Administration is issuing this notice to advise the public of its intent to prepare an environmental impact statement for the proposed Southtowns Connector/Buffalo Outer Harbor Project in Erie County, New York.

FOR FURTHER INFORMATION CONTACT:

Robert J. Russell, Regional Director, New York State Department of Transportation, Region 5, 125 Main Street, Buffalo, New York 14203, (716) 847–3238 or

Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, (518) 431–4127.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FWHA), in cooperation with the New York State Department of Transportation (NYSDOT), will prepare an environmental impact statement (EIS) for the proposed Southtowns Connector/Buffalo Outer Harbor Project (the Proposed Action) in Erie County, New York. The Proposed Action is designed to improve mobility between and through the City of Buffalo and its southern suburban areas, consisting of the City of Lackawanna, the Village of Blasdell, the Town of Hamburg, and other outlying towns and villages.

The Proposed Action is intended to support existing and projected transportation demands currently served by the following facilities:

- A portion of New York State (NYS) Route 5, consisting of a limited-access expressway and at-grade arterial road extending from the Buffalo Skyway (an elevated bridge passing over the Buffalo River) through the Buffalo Outer Harbor and the City of Lackawanna to the Town of Hamburg.
- The Mainline Section of the New York State Thruway (I–90); and
- The Niagara Section of the New York State Thruway (I–90).

A series of previous planning efforts began the process for the development of the Proposed Action. The project was originally considered by the NYSDOT through the completion of the Southtowns Connector Feasibility Study in July 1991. It was also included in the Horizons Waterfront Action Plan, prepared by the Horizons Waterfront commission in January 1992. Further aspects of the project's components are listed in the regional Metropolitan Planning Organization's Long Range Transportation Plan, prepared by the Greater Buffalo-Niagara Regional Transportation Council (GBNRTC).

Most recently in 1998, NYSDOT prepared a Major Investment Study (MIS) associated with the Proposed Action. In accordance with the requirements set forth in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) the MIS was prepared as an Option 1 MIS. Option 1 MISs involve a process for formulating a single or series of locally-preferred alternatives that are progressed into subsequent analysis and documentation in a National Environmental Policy Act (NEPA) EIS.

The MIS process was comprised of three major interrelated elements: (1) identification of deficiencies; (2) development and screening of alternatives; and (3) implementation of a pro-active public involvement program. Initially, twenty-nine alternatives were considered, each intended to meet the project's goals and objectives. Through the conducting of a major flaw analysis and further refinement the number of alternatives was reduced to fifteen. This was followed by more detailed comparative analysis, which resulted in the identification of five locally preferred alternatives remaining under consideration. These will be carried into the analysis for the EIS.

The alternatives remaining under consideration consist of the following components:

- The No Action Alternative, which would involve only implementing planned and committed transportation projects through 2020.
- Implementation of Transportation System Management (TSM) strategies within the study area, such as improved informational systems; and
- Three Major Build Alternatives, including:

—Construction of a new expressway utilizing an existing rail corridor that passes north to south through the study area, extending from Milestrip Road to I–190 near the Seneca Street Interchange in South Buffalo, and construction of a Lackawanna Connector expressway from NYS Route 5, near Smokes Creek, to I–90 near the NYS Route 219 interchange.

—Improvement of existing facilities, involving widening of I–190 from Church Street in Downtown Buffalo to the I–90 Interchange, and widening of I–90 from the I–190 Interchange to the Lackawanna Toll Plaza, as well as construction of the Lackawanna Connector; and

—Constructing a new transit way utilizing the existing rail corridor and construction of the Lackawanna Connector.

NYSDOT is initiating a scoping process for the purpose of determining the scope of issues to be addressed and for identifying significant issues related to the project. Letters 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 previously expressed interest in this proposal. NYSDOT will also conduct a series of formal NEPA public scoping meetings to be held at the following locations and times:

- February 16, 1999, 7:00–9:00 PM, Lackawanna Senior Citizen Complex, 420 Martin Road, Lackawanna, New York.
- February 18, 1999, 4:30–6:30 PM, NYSDOT Public Information Office, Waterfront Village Center, 50 Lakefront Boulevard, Buffalo, New York.
- February 24, 1999, 7:00–9:00 PM, Southside Elementary School Community Room, 430 Southside Parkway, Buffalo, New York.

Each of the above locations has facilities accessible to the handicapped. Should attendees require materials for the hearing impaired associated with any of the public scoping meetings they should contact Mr. Gary Gottlieb at (716) 854–0280 at least 48 hours prior to the subject meeting.

In addition, a public hearing will be held. Public notice will be given of the time and place of the hearing. The EIS will be available for public and agency review and comment.

To ensure that the full range of issues related to the Proposed Action are addressed and all significant issues identified, comments and suggestions are invited from all agencies and interested parties. Comments or questions concerning this Proposed Action and the EIS should be directed to the NYSDOT for FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 23 U.S.C. 315; 23 CFR 771.123.

Issued on: January 26, 1999.

Douglas P. Conlan,

District Engineer, Federal Highway Administration, Albany, New York.

[FR Doc. 99–2651 Filed 2–3–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–297 (Sub–No. 101X)]

Columbus and Greenville Railway Company—Abandonment Exemption—in Bolivar and Washington Counties, MS

Columbus and Greenville Railway Company (C&G) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 49.14 miles of rail line between milepost 109.3 near the City of Cleveland and milepost 158.44 near the City of Hollandale, in Bolivar and Washington Counties, MS. The line traverses United States Postal Service Zip Codes 38732, 38730, 38773, 38742, 38756, 38722 and 38748.

C&G has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no over head traffic on the line during the past 2 years; (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 March 6, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] any additional formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 16, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 24, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Wm. G. Burgin, Jr., 201 North 19th Street, Columbus and Greenville Railway Company, 201 North 19th Street, P.O. Box 6000, Columbus, MS 39701.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

C&G has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by February 9, 1999. 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), C&G 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 C&G's filing of a notice of consummation by February 4, 2000, 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: January 28, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–2559 Filed 2–3–99; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

Corrections

Federal Register

Vol. 64, No. 23

Thursday, February 4, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-150-000]

NorAm Gas Transmission Company; Notice of Request; Notice of Request Under Blanket Authorization

Correction

In notice document 99–1538, appearing on page 3692, in the issue of Monday, January 25, 1999, make the following correction(s):

On page 3692, in the second column, the docket number should read as set forth above.

[FR Doc. C9–1538 Filed 2–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-025-09-1430-01: G-0060]

Realty Action: Sale of Public Land in Harney County, Oregon

Correction

In notice document 98–34179, beginning on page 71500, in the issue of Monday, December 28, 1998 make the following corrections:

On page 71501, in the table, under the Legal Description:

(1) The fourth entry should read ''T.26S., R.30E. (north of Harney Lake), sec. 5, SE¼ NW¼, NE¼SW¼, NW¼SE¼.

(2) The tenth entry should read ''T.26S., R.31E., north of Malheur Lake, sec. 8, N½ SE¼''

[FR Doc. C8–34179 Filed 2–3–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40875; File Nos. SR-CBOE-98-25; Amex-98-22; PCX-98-33; and Phlx-98-36]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Changes by the Chicago Board Options Stock Exchange, Inc., American Stock Exchange, Inc., Pacific Exchange, Inc., and Philadelphia Stock Exchange, Inc.; et al.

Correction

In notice document 99–594, beginning on page 1842, in the issue of Tuesday, January 12, 1999, make the following correction(s):

On page 1845, in the first column, above the FR Doc. line, the signature was omitted and should read as set forth below:

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. C9–594 Filed 2–3–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40845; File No. SR-MSRB-97-12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Political Contributions and Prohibitions on Municipal Securities Business

Correction

In notice document 99–22, beginning on page 539, in the issue of Tuesday, January 5, 1999, make the following correction(s):

On page 539, in the first column, the Release No. is corrected to read as set forth above.

[FR Doc. C9–22 Filed 2–3–99; 8:45 am]

BILLING CODE 1505–01–D

SECURTIES AND EXCHANGE COMMISSION

[Release No. 34-40731; File No. SR-NYSE-98-39]

Self-Regulatory Organization; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., to Increase the Administration Fee Charged for the Supervisory Analyst Examination (Series 16)

Correction

In notice document 98–32602 beginning on page 67964 in the issue of Wednesday, December 9, 1998, make the following correction(s):

On page 67965, in the first column, above the FR. Doc. line, the signature was omitted and should read as set forth below:

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. C8–32602 Filed 2–3–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Thursday
February 4, 1999

Part II

Department of Education

Federal Student Financial Assistance Programs—Distance Education Demonstration Program; Notice

DEPARTMENT OF EDUCATION

Federal Student Financial Assistance Programs—Distance Education Demonstration Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for participation in the Distance Education Demonstration Program.

SUMMARY: The Secretary of Education invites institutions of higher education (institutions), systems of institutions, consortia of institutions, and Western Governors University to submit applications to participate in the Distance Education Demonstration Program authorized under section 486 of title IV of the Higher Education Act of 1965, as amended (HEA). Under the Distance Education Demonstration Program, selected institutions providing distance education programs may receive waivers of specific statutory and regulatory provisions governing the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended, (Title IV of the HEA programs).

INSTRUCTIONS FOR SUBMITTING AN APPLICATION: Elements to be included in an application are described in this notice. There is no application form *per se* for the program. Applications should be submitted electronically by electronic mail or in hard copy to the addresses below. All applications should clearly designate a contact person, and the telephone number and the e-mail address of the contact person. Applications submitted by electronic mail should be submitted in Microsoft Word version 6.1 or lower or WordPerfect version 6.0 or lower. Applicants need only submit one original application. No copies are necessary.

DATES: Applications must be postmarked or submitted electronically on or before April 1, 1999.

ADDRESSES: DistanceDemo@ed.gov is the address for electronic submission. For submission of an application in hard copy: mail hard copy to Marianne R. Phelps, U.S. Department of Education, 600 Maryland Avenue, S.W., (Room 4082, ROB–3), Washington, D.C. 20202 or hand deliver to Marianne Phelps, U.S. Department of Education, Room 4082, ROB–3, 7th and D Streets, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Marianne R. Phelps at (202) 708–5547 or at DistanceDemo@ed.gov if e-mailed. Information concerning the program can also be found on the Web site of the Department (http://www.ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Background and Purpose of the Distance Education Demonstration Program

Over the past few years, there has been rapid growth in the number of institutions providing courses and degree programs in various modes of ''distance education.'' For purposes of the Distance Education Demonstration Program and this notice, ''distance education'' is defined as an educational process that is characterized by the separation, in time or place, between instructor and student. Such term may include courses offered principally through the use of television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission; audio or computer conferencing; video cassettes or discs; or correspondence.

This growth in distance education has occurred in response to increasing demand from students who are restricted in their ability to enroll in more traditional programs, including working adults, parents, people who live in rural communities, and students with disabilities. Another reason for this growth is the potential for cost control. Distance education is attractive to institutions that seek to avoid large investments in new facilities to meet student demand and to students who can complete their educational programs more economically using distance education for all or part of their studies. Additionally, through consortia and other agreements among institutions that provide distance education, many students are able to take advantage of a richer selection of course offerings tailored to their individual needs than are available at the institutions where they are enrolled.

Distance education has been available to postsecondary education students for many years. More recently, advancements in technology have provided additional instructional opportunities through the incorporation of print, telephone, fax, television, radio, video and audio conference, the Internet, electronic mail and computer-based integrated telecommunication systems. The richness of the available technology has made the delivery of high quality distance education possible and desirable for many more postsecondary education programs and students.

Currently, some statutory provisions defining institutional eligibility for the Title IV, HEA programs may limit the circumstances in which Title IV, HEA program funds can be provided to students enrolled in distance education. For example, institutions that offer more than 50 percent of their courses via distance education or enroll more than 50 percent of their students in distance education programs [hereafter referred to as ''the 50 percent rules''] are not eligible to participate in the Title IV, HEA programs.

Other statutory provisions, such as those dealing with the length of an academic year and the minimum length of an eligible vocational program, are based on the patterns and structure of ''traditional'' on-campus education. As such, they can be burdensome and difficult to apply to distance education programs. They may also limit institutions from structuring programs that may best meet the needs of distance education students, institutions, and systems and consortia of such institutions. Similar problems may arise with regard to regulatory provisions implementing part G of title IV of the HEA.

Many of these requirements were put in place to address abuses in the Title IV, HEA programs and until recently did not have much effect on institutions offering distance education programs or courses or their students' eligibility for aid. However, at this point in the evolution of distance education programs, changes to student aid requirements may be necessary to allow students to take full advantage of the opportunities distance education provides and to make it possible for institutions to fully utilize the potential technology now offers to enhance distance education courses and programs. On the other hand, restructuring aid to fit these new patterns presents some risks as well as opportunities, and care in designing alternatives to the current student aid requirements is necessary to assure continued integrity in the Title IV, HEA programs.

In response to these dual concerns, Congress enacted the Distance Education Demonstration Program. As described in section 486(a) of the HEA, the purpose of the program is to—

(1) Allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded

distance education programs currently restricted under this Act;

(2) Provide for increased student access to higher education through distance education programs; and

(3) Help determine the—

(A) Most effective means of delivering quality education via distance education course offerings;

(B) Specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

(C) Appropriate level of federal assistance for students enrolled in distance education programs.

Under the Distance Demonstration Program, participants may offer Title IV, HEA program funds to students enrolled in educational programs utilizing distance education delivery methods for all or a portion of their classes without being subject to certain statutory and regulatory provisions, which the Secretary may waive, upon their request. The purpose of these waivers is to test new ways of administering the Federal student assistance programs and to consider how the law and regulations might be altered to allow for expansion of aid to distance students and still ensure program integrity. In the first year of the program, the Secretary is authorized to select from among eligible applicants, up to a total of 15 institutions, systems of institutions, or consortia of institutions to participate in the program. (For these purposes, a system of institutions could be a group of institutions with a common governing board. An example would be a community college system or a group of private institutions owned by the same corporation. A consortia of institutions could be two or more institutions that have agreed to collaborate on a common effort such as sharing distance education courses or a two-year and four-year institution cooperating to offer a bachelor's degree completion program.)

The Secretary anticipates that the institutions, systems or consortia selected will continue to participate for five years. Participation, of course, will be conditioned upon their meeting the requirements of the Distance Education Demonstration Program and continued participation in Title IV, HEA programs. Institutions desiring to withdraw from the Distance Education Demonstration Program may do so without jeopardy to their participation in Title IV HEA programs. Also, the scope of the participation, such as the specific distance education programs included and waivers provided, may be modified as agreed upon by the Secretary and the participant, to allow for changes in the programs offered, the modes of delivery used, the size of participants' distance programs, or other changes desired by the Secretary or the participant as experience is gained in the program.

The Department plans to administer this program through an implementation team consisting of staff from various offices within the Department. The Department recognizes the importance of identifying and addressing any problems that arise during the course of the demonstrations. It will facilitate communication among participants and will work with institutions to provide technical assistance throughout the demonstrations, beginning with the application process. Departmental staff with responsibility for monitoring compliance with Title IV program requirements will be well represented on the implementation team and will monitor compliance with the requirements of the Distance Education Demonstration Program.

The Department also anticipates working closely with accrediting agencies and States to determine how their respective roles contribute to assuring quality and integrity. Accrediting agencies will play a substantial role in monitoring the demonstration programs, consistent with their responsibilities. Where State requirements are relevant to distance education programs, the Department will work with States to determine how their monitoring role assists in insuring program integrity.

The participants must agree to provide data and information that will assist the Secretary in evaluating the Distance Education Demonstration Program and in reporting to Congress as required by the statute. The data and information provided by participants will assist the Secretary in determining whether statutory and regulatory changes might be needed to support the growth of quality distance education courses and programs and the appropriate level of Federal assistance for students enrolled in distance education program, two of the purposes of the program that are specified in the statute. The Department will publish a separate notice in the **Federal Register** that will specify the data collection requirements for participants and request comment on the paperwork burden associated with these requirements. To the maximum extent possible, the Department will make the data requirements of this program consistent with already existing data collection requirements, thereby minimizing the burden on participants.

The program is also designed to examine ways to assure the integrity of Title IV, HEA programs in the context of distance education. This examination will be accomplished principally through the close monitoring of participants' administration of Title IV, HEA programs.

Eligible applicants

The following institutions are eligible to apply to participate in the Distance Education Demonstration Program:

(1) Institutions located in the United States that participate in the Title IV, HEA programs;

(2) Institutions located in the United States that provide a two-year program that leads to an associate degree or a four-year program that leads to a baccalaureate or higher degree and would be eligible to participate in the Title IV HEA programs but for the fact that they do not meet one or both of the 50 percent rules; or

(3) Western Governors University.

In addition, systems and consortia of these institutions are eligible to participate in the program.

Statutory and Regulatory Provisions That May Be Waived

The Secretary may waive statutory and regulatory provisions. To obtain a waiver, an institution must request the waiver in its application to participate in the program and must provide reasons for the waiver. Where possible, the applicant should suggest an alternative that is designed to meet the same objectives as those achieved by the waived statutory or regulatory provision. For example, if an applicant seeks to waive the requirement that students must achieve satisfactory academic progress as defined in the regulations, the applicant should suggest an alternative means to ensure that Federal student aid funds are provided only to students who are making progress towards a degree or certificate. An applicant need not include an alternative approach with regard to a request to waive one or both of the 50 percent rules.

Statutory Provisions

The Secretary may waive the following HEA statutory provisions:

- *Section 102(a)(3)(A).* This section makes an otherwise eligible institution ineligible if more than 50 percent of its courses are offered by correspondence and telecommunication.
- *Section 102(a)(3)(B).* This section makes an otherwise eligible institution ineligible if 50 percent or more of its students are enrolled in correspondence or telecommunications courses.

• *Section 484(l)(1).* This section defines a telecommunications student at an institution as a correspondence student if 50 percent or more of the institution's courses are offered by correspondence or telecommunication.

• *The required minimum number of weeks of instruction contained in section 481(a).* This section provides that an academic year must require at least 30 weeks of instructional time.

• The required minimum number of weeks of instruction contained in section 481(b). This section provides that an eligible vocational program must be provided during a minimum of 15 weeks, or in limited circumstances, 10 weeks.

Regulatory Provisions

In addition to the aforementioned statutory provisions, the Secretary may waive the regulatory provisions implementing part G of the HEA which inhibit the operation of quality distance education programs. Part G consists of sections 481 through 493B of the HEA. These sections contain numerous provisions dealing with the Title IV, HEA programs. In general, the regulations implementing these provisions are contained in 34 CFR part 668.

(Under the Distance Education Demonstration Program, the Secretary is authorized to waive any regulations governing part F of title IV, which deals with need analysis and costs of attendance. However, the Secretary is not authorized to issue regulations implementing part F; therefore, there are no regulations to waive.)

Special Waivers for Western Governors University

In addition to the waivers described above, upon the request of Western Governors University, the Secretary may waive statutory provisions contained in title I and parts G and H of title IV of the HEA that the Secretary determines to be appropriate because of the unique characteristics of Western Governors University. If the Secretary grants such a waiver, the Secretary will require the university to undertake actions that are necessary to ensure the integrity of the Title IV, HEA programs and the accountability of Title IV, HEA program funds.

Application Requirements

Each application to participate in this program shall include—

1. The name, address, and web site address, if any, of the institution, system, or members of the consortium seeking to participate, and the name, title, mailing and E-mail addresses, and telephone number of a contact person for the institution, system, or consortium;

2. A description of the distance education programs offered or to be offered for which the institution is seeking a waiver or waivers. An institution may request a waiver or waivers for one, several, or all of its distance education courses or programs. The description should include the types of programs, degrees or certificates offered, program goals, and the methods used or proposed to be used to deliver distance education;

3. A description of the applicant's consultation with a recognized accrediting agency or agencies with respect to quality assurances for the distance education programs to be offered;

4. A description of the types of students that the distance education programs are intended to serve, (e.g., adult learners, rural populations, individuals with disabilities);

5. The Title IV, HEA programs under which distance education students will receive funds;

6. The statutory and regulatory provisions to be waived, the scope of each waiver, and the reason for each waiver. The applicant should propose an alternative to the provision(s) or explain why no alternative is necessary;

7. An assurance that the institution, system, or consortium will fully cooperate with the ongoing evaluations of the program; and

8. A statement of the goals of the institution, system, or consortium for participation along with the method the institution will use to evaluate achievement of the goals.

In addition to the information described above, systems and consortia must provide the following additional information—

1. A description of the system or consortium and the relationship among the members of the system or consortium, a copy of any agreement governing the relationship of institutions that are members of the system or consortium, and a list of the institutions which are members;

2. A description of the manner in which the distance education programs are or will be conducted among the system and consortium members particularly as that manner is related to the waiver request; and

3. The manner in which Title IV, HEA program funds will be administered to the students in the distance education programs.

Selection of Participants

In selecting applicants to participate in the program, the Secretary will take into account the—

1. Number and quality of applications received;

2. Department of Education's capacity to oversee and monitor the applicant's participation;

3. Applicant's financial responsibility; administrative capability; and the program or programs being offered via distance education; and

4. Necessity of including a diverse group of participating institutions *vis-a-vis* size, mission, and geographic distribution.

As part of the selection process, the Department of Education will screen the applications to ensure that applicants are eligible. Then, outside reviewers will recommend the best applications given the statutory criteria. The Secretary will make final selections, based on the recommendations of the outside reviewers and the criteria listed in statute.

Evaluations

The HEA requires the Secretary to submit reports to Congress evaluating the Distance Education Demonstration Program annually and eighteen months after the initiation of the program. As specified in the Act, the evaluations are to include the following:

1. The extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance.

2. The number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased.

3. Issues related to student financial assistance for distance education.

4. Effective technologies for delivering distance education course offerings.

5. The extent to which statutory or regulatory requirements not waived under the program present difficulties for students or institutions.

To assist the Secretary in conducting such evaluations, participants in the distance education demonstration programs will be required to provide information to the Secretary, such as: course level detail regarding their offerings, the degrees or certificates awarded for successful completion, data on persistence and completion, data regarding student demographics, information regarding tuition and fees charged by the participant, program

design and use of technology, information regarding the educational environment and student support, student satisfaction surveys, and average development costs for each field of study.

Based upon the results of the evaluations during the first year of the program, the Secretary may select up to an additional 35 institutions, systems of institutions, and consortia of institutions to participate in the third year of the program.

Guidance

The guidance provided below is intended to assist applicants in determining information they may wish to include in their applications. This guidance is non-binding and does not constitute criteria for selection. Applications which do not include the information suggested in the guidance will be considered on the same basis as applications which include all or part of that information.

1. Applicants should consider describing the ways that they think their proposals will assist the Department in determining new ways of administering Federal student assistance programs that better meet the needs of distance students.

2. It is important that the accrediting and State authorizing agencies of the institution, or institutions that comprise a consortium or system, are willing to collaborate with the Department to determine how their complementary roles can best be structured to assure quality and integrity in institutions' distance education programs. To this end, applicants for the program should provide documentation that their accrediting agencies and States are willing to work with the Department to examine the respective roles of the agencies as they relate to institutions' distance education programs. In that documentation, accrediting agencies should certify that the individual distance programs that the institution includes in its application are within the scope of the institution's accreditation, and that the agency will review the program at an appropriate time. To the extent that accrediting agencies evaluate a particular consortial or system relationship, the consortium or system's application should include similar information.

3. While the Department will evaluate applications using the statutory criteria, to the extent possible, the Department will view those criteria in the context of the delivery of student aid to distance students and any changes that are needed to facilitate that process. Because the delivery of student aid is so critical to improving access to distance education, a good application would fully describe the applicant's ability to fully execute its plans and specify waivers requested and substitutions and address fully the need for the waivers and substitutions.

4. Applicants should consider establishing both quantitative and qualitative objectives for their participation and include in the application a description of how they intend to measure goal attainment, including measures of program quality. The Department notes that quantitative measures are essential for understanding goal attainment.

5. A major concern of the Department is to insure that Federal funds in the Distance Education Demonstration Program are used appropriately. A good application will address how the applicant plans to document student eligibility, including documentation of attendance.

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Note: The official version of a document is the document published in the **Federal Register**.

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Dated: February 1, 1999.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

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TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

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