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Monday
November 15, 1999

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WASHINGTON, DC

WHEN: December 7, 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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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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI86

Prevailing Rate Systems; Definition of Napa County, CA, to a Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim rule that will define Napa County, California, as an area of application to the Solano, CA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area. This change is necessary because there will be NAF FWS employees stationed in Napa County, and the county is not currently defined to an NAF wage area.

DATES: This interim rule is effective on December 15, 1999. Comments must be received by December 15, 1999.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins, (202) 606–2848, FAX: (202) 606–0824, or email: *jdhopkin@opm.gov*.

SUPPLEMENTARY INFORMATION:

The Office of Personnel Management (OPM) is redefining the Solano, California, Federal Wage System (FWS) nonappropriated fund (NAF) wage area to add Napa County, CA, as an area of application. The Army and Air Force Exchange Service (AAFES) recently acquired the Yountville Retail Facility located in Napa County and plans to staff the new activity with approximately eight employees, two of whom will be paid under the FWS. Under section 532.219 of title 5, Code of Federal Regulations, each NAF wage area ''shall consist of one or more survey areas, along with nonsurvey areas, having nonappropriated fund employees.'' Currently, the Solano wage area consists of one survey county, Solano County, and two areas of application counties, Marin and Sonoma Counties, CA.

Section 532.219 of title 5, Code of Federal Regulations, lists the regulatory criteria that OPM considers when defining FWS wage area boundaries:

(i) Proximity of largest activity in each county;

(ii) Transportation facilities and commuting patterns; and

(iii) Similarities of the counties in:

(A) Overall population;

(B) Private employment in major industry categories; and

(C) Kinds and sizes of private industrial establishments.

Based on an analysis of the regulatory criteria for defining NAF wage areas, OPM is defining Napa County, CA, as an area of application to the Solano, CA, NAF FWS wage area. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and concurred by consensus with this change.

Napa County does not meet the regulatory criteria under 5 CFR 532.219 to be established as a separate NAF wage area; however, nonsurvey counties may be combined with a survey area to form a wage area. Therefore, Napa County will be defined as an area of application to an existing NAF wage area. The closest major Federal installation to Yountville is Travis Air Force Base (AFB) in the Solano survey area. Travis AFB has approximately 444 NAF FWS employees. Yountville is approximately 43 km (27 miles) from Travis AFB. Commuting patterns, which indicate that 11 percent of the Napa County resident workforce commutes to work in the Solano survey area, favor the Solano wage area. Transportation facilities consist of major interstates and highways and do not favor one wage area more than another.

A review of employment and kinds and sizes of industrial establishments shows that the Solano survey area is composed of a moderately sized population and workforce that most closely resembles Napa County. The Solano survey area also has a similar distribution of employment in surveyable industries to Napa County, with a high proportion of employment in the services sector.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because it is necessary to define Napa County, CA, to an NAF wage area as soon as possible to set pay for new FWS employees.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix D to subpart B is amended by revising the wage area listing for the Solano, California, wage area to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

CALIFORNIA

* * * * *

SOLANO

Survey Area

California:
Solano

Area of Application. Survey area plus:

California:
Marin
Napa
Sonoma

* * * * *

[FR Doc. 99–29686 Filed 11–12–99; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 220 and 226

[RIN 0584–AB81]

National School Lunch Program, School Breakfast Program and Child and Adult Care Food Program: Amendments to the Infant Meal Pattern

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the regulations for the National School Lunch Program, School Breakfast Program and Child and Adult Care Food Program to eliminate the option of serving whole cow's milk as part of reimbursable meals for infants under one year of age. Instead, schools and institutions are required to serve either breast milk or iron-fortified formula with all reimbursable meals served to those infants. This rule responds to scientific data demonstrating that infants who consume cow's milk during their first year receive an inappropriate level of nutrients and experience more nutrition-related health problems than children who are fed breast milk or iron-fortified formula. This rule also amends the definition of ''infant formula'' currently in the Child and Adult Care Food Program regulations to conform to the definition of ''infant formula'' for the National School Lunch and School Breakfast Programs, because the latter definition more accurately describes the role of formula in infants' diet. This rule further makes technical amendments to the regulations and charts outlining the Infant Meal Patterns to clarify the role of breast milk in these programs. Finally, this regulation authorizes reimbursement for meals containing only breast milk. These amendments support America's breastfeeding promotion campaign and the Healthy People 2000 goal of increasing the incidence and duration of breastfeeding to at least 75 percent in the early postpartum period and 50 percent at 5 to 6 months and beyond, by increasing the incentive for day care providers to encourage breast feeding and will result in children receiving improved nutrition benefits during their first year of life.

DATES: This rule is effective December 15, 1999. To be assured of consideration, comments must be postmarked on or before May 15, 2000.

ADDRESSES: Comments should be addressed to Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302 or via the Internet at CNDProposal@FNS.USDA.GOV. All written submissions will be available for public inspection in Room 1007, 3101 Park Center Drive, Alexandria, Virginia during regular business hours (8:30 a.m. to 5:00 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eadie at the above address or by telephone at (703) 305–2620.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be significant under Executive Order 12866 and was reviewed by the Office of Management and Budget.

Public Law 104–4

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

This interim rule contains no Federal mandates (under regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, this interim rule is not subject to the requirements of sections 202 and 205 of the UMRA. However, a Regulatory Cost/Benefit Assessment is provided in the Appendix to this preamble.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Under Secretary for Food, Nutrition and Consumer Services has certified that this rule will not have a significant economic impact on a substantial number of small entities because the number of infants who would be affected constitutes a tiny portion of the total participation in these programs. The principal effect of this rule will be to enhance the nutritional benefit of meals served to infants under these programs.

Executive Order 12372

The National School Lunch Program, School Breakfast Program and Child and Adult Care Food Program are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.553 and 10.558 respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule-related notice published in 48 FR 29114, June 24, 1983).

Paperwork Reduction Act

This rule contains no new information collection requirements. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the reporting and recordkeeping requirements included in this rule have been previously approved by the Office of Management and Budget under clearances 0584–0006, 0584–0012 and 0584–0055.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

In the National School Lunch Program and School Breakfast Program, the

administrative procedures are set forth under the following regulations: (1) School food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established pursuant to 7 CFR 210.18(q); (2) school food authority appeals of Food and Nutrition Service findings as a result of an administrative review must follow agency hearing procedures as established pursuant to 7 CFR 210.30(d)(3); and (3) State agency appeals of State Administrative Expense fund sanctions under 7 CFR 235.11(b) must follow the administrative review process as established pursuant to 7 CFR 235.11(f).

In the Child and Adult Care Food Program, the administrative procedures are set forth under the following regulations: (1) Institutions must follow administrative appeal procedures as established pursuant to 7 CFR 226.6(k); and (2) State agency or institution appeals of procurement matters must follow administrative appeal procedures to the extent required by 7 CFR 226.22 and 7 CFR 3015.

Public Participation

In accordance with the requirements of 5 U.S.C. 553, the Under Secretary for Food, Nutrition and Consumer Services has determined that good cause exists for not requiring notice and comment before making this rule effective. Scientific evidence has demonstrated that infants should not be served whole cow's milk before their first birthday, because it does not provide the appropriate level of nutrients needed by very young children and can be detrimental to their health and development. Because of the importance of maintaining high standards of nutrition in the school meal programs and the Child and Adult Care Food Program, prior notice and comment would be contrary to the public interest. As specified above, the Department will consider comments submitted in response to this rulemaking and will address those comments in future rulemakings.

Background

Sections (9)(a)(1)(A) and 17(g)(1)(A) of the National School Lunch Act (42 U.S.C. 1758 and 1766) and Section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773) require meals claimed for reimbursement under the National School Lunch Program (NSLP), the Child and Adult Care Food Program (CACFP) and the School Breakfast Program (SBP) to meet nutrition requirements established by the Secretary of Agriculture. Additionally, Section 9(a)(2)(A) of the National School Lunch Act requires that lunches served under the NSLP offer fluid milk as a component.

These statutory mandates have been implemented by 7 CFR 210.10 and 210.10a for the NSLP, 7 CFR 220.8 and 220.8a for the SBP and 7 CFR 226.20 for the CACFP, all of which include specific meal component and quantity requirements for children under one year of age. The principal component for meals served to these children is either breast milk provided by the infant's mother (which could include breast milk produced by a wet nurse) or iron-fortified infant formula. In addition, while the Department recommends that either breast milk or iron-fortified formula be served for the entire first year of the child's life, schools and institutions currently have the option of serving whole cow's milk to children beginning at eight months of age as long as the infants consume at least one-third of their calories from a balanced mixture of cereal, fruits, vegetables and other foods to ensure that the child receives adequate levels of iron and vitamin C.

The Department originally authorized serving whole cow's milk to older infants because of a 1983 policy statement by the American Academy of Pediatrics which indicated that, at that time, there was no convincing evidence from studies demonstrating that cow's milk is harmful for children older than six months provided they consume adequate supplementary foods. Subsequent studies have shown, however, that consumption of whole cow's milk can be detrimental to the health of infants between six months and one year of age as well as younger infants.

Most seriously, consumption of whole cow's milk can lead to iron deficiency. High levels of calcium and phosphorus and the low level of vitamin C in whole cow's milk may inhibit an infant's ability to absorb iron from other foods, including iron-fortified infant cereals. Moreover, whole cow's milk has been shown to cause microscopic bleeding and nutritionally significant blood loss from an infant's gastrointestinal tract during the second six months of life, thereby promoting the development of iron deficiency anemia. Studies suggest that iron deficiency in infancy and early childhood may lead to long-term changes in behavior that may not be reversed later even by taking iron supplements which correct the iron deficiency anemia. In contrast to these disadvantages associated with whole cow's milk during the first year of life, infants who are fed breast milk or iron-fortified formula for the entire first year of life generally maintain normal iron status.

In addition to inadequate iron intake, infants who are fed whole cow's milk receive low levels of linolenic acid (an essential fatty acid) and vitamin E. On the other hand, they receive excessive levels of sodium, potassium, chloride and protein, which can place stress on an infant's kidneys and could be dangerous for infants suffering from medical conditions associated with dehydration (*e.g.*, diarrhea, vomiting and fever). When whole cow's milk is fed to infants, their nutrient intakes are not optimal, and their nutritional status may be altered, with the most dramatic effect on iron status.

Based on these more recent findings, the American Academy of Pediatrics issued a policy statement in 1992 which concluded that whole cow's milk should not be fed to infants at all during the first year of life. In response to this statement, the Department is amending 7 CFR 210.10(m), 210.10(n), 210.10a(h), 210.10a(j), 220.8(i), 220.8a(b) and 226.20(b) to eliminate cow's milk as an option for meals served to infants under one year of age and to require, instead, that all reimbursable infant meals include either breast milk or iron-fortified formula.

Reimbursement for Breast Milk Meals

This interim rule also amends the Infant Meal Pattern regulations to emphasize the desirability of feeding breast milk to all infants under one year of age and to encourage breast milk feeding by authorizing reimbursement for meals containing only breast milk. Because of the substantial nutritional benefits of breast milk, the regulations for the NSLP, SBP and CACFP permit breast milk or iron-fortified formula for all infant meals served under these programs (7 CFR 210.10(m)(2), 210.10a(h), 220.8(i), 220.8a(b) and 226.20(b), respectively). Under the current regulations, however, when breast milk is the only component in an infant's meal, that meal may not be claimed for reimbursement under the school meal programs or the CACFP. This provision reflects the overall requirement that meals are not eligible for reimbursement when all items are provided by the child's family and, as a result, the provider has incurred no expense in obtaining the food.

However, the Department is concerned that this restriction on reimbursement does not reflect the Department's deep commitment to encouraging consumption of breast milk by infants. "Healthy People 2000, National Health Promotion and Disease

Prevention Objectives'' issued by the U.S. Department of Health and Human Services in goal 2.11 on nutrition and goal 14.9 on maternal and infant health recommend that America should increase the incidence and duration of breastfeeding to at least 75 percent in the early postpartum period and 50 percent at 5 to 6 months and beyond. Also, the Food and Nutrition Service strategic plan includes breast feeding promotion as part of Objectives 3.2 and 3.3; and Goal 3.2.1 of the Food and Nutrition Service Annual Performance Plan provides specific annual targets for increasing breastfeeding in support of America's overall objectives.

In other programs, notably the Special Supplemental Nutrition Program for Women, Infants and Children, the Department has been actively promoting breastfeeding, and restricting its use under the NSLP, SBP and CACFP creates an inconsistency that tends to undermine this position. Therefore, the Department is amending the program regulations to permit reimbursement for meals served to infants younger than 8 months that contain only breast milk and no other items. The Department emphasizes that this provision applies *only* to meals in which breast milk is the only required item and is being adopted in recognition of the special contribution breast milk makes to the health, well-being and development of the child. This provision does not apply to those situations in which infant formula is the only required item and is provided by the parent. Moreover, meals served to infants 8 months of age and older, which require at least one item in addition to breast milk, continue to be ineligible for reimbursement unless the provider also furnishes at least one item.

Minimum Quantity of Breast Milk

The current Program regulations require providers to serve minimum portions of meal components, including breast milk, in order for the meal to be reimbursed. The Department is aware, however, that some infants consume, on average, less than the minimum serving of breast milk established for their age group. Consequently, if the full portion of breast milk is offered to an infant who does not consume that much, some of the breast milk may be wasted. Since breast milk is provided in very limited quantities, the Department is anxious to conserve as much as possible of this resource. Therefore, in this interim rule, the Department is permitting providers to serve less than the minimum regulatory serving of breast milk to infants who regularly do not consume that amount of breast milk. However, if the full portion is not initially offered, the provider must offer additional breast milk if the infant is still hungry.

The Department emphasizes that this provision is being adopted solely in recognition of the reduced needs of some infants and the desire to avoid wasting already limited quantities of breast milk. Therefore, under no circumstances could providers offer less than the stipulated minimum serving of infant formula or other components of the meal pattern.

Technical Clarifications Regarding Service of Breast Milk

The Department is also incorporating a number of technical amendments to clarify certain issues with regard to breast milk. First, while the regulations for the NSLP, SBP and CACFP permit breast milk to be substituted for iron-fortified formula (7 CFR 210.10(m)(2), 210.10a(h), 220.8(i), 220.8a(b) and 226.20(b), respectively), there is no specific mention of breast milk in the regulatory text that outlines the infant meal patterns for these programs. Therefore, to ensure that there is no confusion on this point, the Department is amending the appropriate regulatory texts outlining the infant meal patterns to include breast milk as a specific option along with iron-fortified formula.

Moreover, this rule adds footnotes to the chart in 7 CFR 226.20(b)(4) to clarify that breast milk may be substituted for infant formula for all meals served to infants and that providers may serve less than the minimum portion of breast milk to infants. This rule also adds identical charts to 7 CFR 210.10(m), 210.10a(h), 220.8(i) and 220.8a(b).

Definition of Infant Formula

The Department is also taking this opportunity to make a technical amendment to the CACFP regulations to conform the definition of ''infant formula'' in that program to the definition in the regulations for the NSLP and SBP. Currently, infant formula is described in 7 CFR 226.2 as being ''intended for dietary use as a sole source of food.* * *'' The regulations for the NSLP and SBP, however, define infant formula as ''intended for dietary use solely as a food * * *.''

The language in the CACFP's definition has been interpreted by some to mean that infant formula is the only allowed food source. The definition in the school program regulations avoids this confusion by specifying that infant formula is to be used only as a source of food for infants and not as the only source. In the interests of clarification, therefore, this rule proposes to amend the CACFP regulations to conform the definition of ''infant formula'' in that program to the definition in the NSLP and SBP regulations. The Department emphasizes that this is not a substantive change to the meal requirements for the CACFP but is a technical amendment to clarify what has always been the intent of the regulation.

Care and Handling of Breast Milk

Finally, as consumption of breast milk becomes increasingly prevalent in the NSLP, SBP and CACFP, meal providers must take care to ensure that breast milk is stored and handled properly to prevent possible tainting or spread of disease. In particular, all breast milk given to the provider should have a label stating the child's name, and providers must make sure that each child receives only the breast milk supplied by its mother. State agencies should include breast milk handling techniques as part of their training and technical assistance activities, and school food authorities and child care sponsors should take steps to make all meal providers aware of the importance of this issue.

List of Subjects

7 CFR Part 210

Commodity School Program, Food assistance programs, Grants programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 220

Food assistance programs, Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, Infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly 7 CFR Parts 210, 220 and 226 are amended, as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

2. In § 210.10:

a. Paragraph (l)(1) is amended by revising the fifth sentence.

b. Paragraph (m)(1)(i) is amended by removing the words ''formula or milk''

and adding in their place the words ''breast milk or iron-fortified infant formula''.

c. Paragraph (m)(2) is amended by removing the ninth and tenth sentences, revising the eleventh sentence, and adding two new sentences immediately following the eleventh sentence.

d. Paragraphs (m)(2)(i) and (m)(2)(ii)(A) are amended by adding the words ''breast milk or'' between the words ''of'' and ''iron-fortified infant formula'' each time they appear.

e. Paragraph (m)(2)(iii)(A) is revised.

f. A new table ''Lunch Pattern for Infants'' is added after paragraph (m)(2)(iii)(C).

g. Paragraphs (n)(3)(i), (n)(3)(ii) and (n)(3)(iii) are amended by adding the words ''breast milk or iron-fortified'' between the words ''of'' and ''infant formula''. Paragraph (n)(3)(iii) is further amended by removing the words ''or whole fluid milk''.

h. Paragraph (n)(3)(iv) is redesignated as paragraph (n)(4), and is further amended by removing the word ''paragraph'' and adding in its place the words ''paragraphs (n)(2) and''.

i. The table ''Supplements for Infants'' appearing after the Meal Supplement Chart for Children in newly redesignated paragraph (n)(4) is revised.

The revisions and additions specified above read as follows:

§ 210.10 Nutrition standards for lunches and menu planning methods.

* * * * *

(l) * * *

(1) * * * All milk served shall be pasteurized fluid types of milk which meet State and local standards for such milk; except that, in the meal pattern for infants under 1 year of age, the milk shall be breast milk or iron-fortified infant formula. * * *

* * * * *

(m) * * *

(2) * * * Either breast milk or iron-fortified infant formula shall be served for the entire first year. For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered. In these situations, additional breast milk must be offered if the infant is still hungry.* * *

* * * * *

(iii) * * *

(A) 6 to 8 fluid ounces of breast milk or iron-fortified infant formula;

* * * * *

(C) * * *

LUNCH PATTERN FOR INFANTS

	Birth through 3 months	4 through 7 months	8 through 11 months
Lunch	4–6 fl.oz. breast milk [2 3] or formula [1]	4–8 fl.oz. breast milk [2 3] or formula [1] 0–3 Tbsp. Infant cereal [1 4]; 0–3 Tbsp. Fruit and/or vegetable [4]	6–8 fl.oz. breast milk [2 3] or formula [1]; and 2–4 Tbsp. Infant cereal [1]; and/or 1–4 Tbsp. meat, fish, poultry, egg yolk, cooked dry beans, or peas; or ½–2 oz. cheese; or 1–4 Tbsp. cottage cheese, cheese food, or cheese spread; and 1–4 Tbsp. fruit and/or vegetable.

[1] Infant formula and dry infant cereal shall be iron-fortified.
[2] It is recommended that breast milk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.
[4] A serving of this component shall be optional.

(n) * * *

(4) * * *

SUPPLEMENTS FOR INFANTS

	Birth through 3 months	4 through 7 months	8 through 11 months
Supplement (snack)	4–6 fl. oz. breast milk [2 3] or formula [1]	4–6 fl. oz. breast milk [2 3] or formula [1]	2–4 fl. oz breast milk [2 3], formula [1], or fruit juice [4]; 0–½ bread [5] or 0–2 crackers [5].

[1] Infant formula shall be iron-fortified.
[2] It is recommended that breast milk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered with additional breast milk offered if the infant is still hungry.
[4] Fruit juice shall be full-strength.
[5] Bread and bread alternates shall be made from whole-grain or enriched meal or flour. A serving of this component shall be optional.

* * * * *

3. In § 210.10a:

a. Paragraph (a)(1) is amended by removing the words ''formula or milk'' and adding in their place the words ''breast milk or iron-fortified infant formula''.

b. Paragraph (d)(1) is amended by revising the third sentence.

c. The introductory text in paragraph (h) is amended by removing the ninth and tenth sentences, revising the eleventh sentence, and adding two new sentences immediately following the eleventh sentence.

d. Paragraphs (h)(1), (h)(2)(i) and (h)(3)(i) are amended by adding the words ''breast milk or'' between the words ''of'' and ''iron-fortified infant formula''. Paragraph (h)(3)(i) is further amended by removing the words ''or 6 to 8 fluid ounces of whole milk''.

e. A new table ''Lunch Pattern for Infants'' is added after paragraph (h)(3)(iii).

f. Paragraphs (j)(3)(i), (j)(3)(ii) and (j)(3)(iii) are amended by adding the words ''breast milk or iron-fortified'' between the words ''of'' and ''infant formula''. Paragraph (j)(3)(iii) is further amended by removing the words ''or whole fluid milk''.

g. The undesignated text after paragraph (j)(3)(iii) is designated as paragraph (j)(4), and is further amended by removing the word ''paragraph'' and adding in its place the words ''paragraphs (j)(2) and''.

h. The table ''Supplements for Infants'' appearing after the Meal Supplement Chart for Children in newly designated paragraph (j)(4) is revised.

The revisions and additions specified above read as follow:

§ 210.10a Lunch components and quantities for the meal pattern.

* * * * *

(d) * * *

(1) * * * All milk served shall be pasteurized fluid types of milk which meet State and local standards for such milk; except that, in the meal pattern for infants under 1 year of age, the milk shall be breast milk or iron-fortified infant formula. * * *

* * * * *

(h) * * * Either breast milk or iron-fortified infant formula shall be served for the entire first year. For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered. In these situations, additional breast milk must be offered if the infant is still hungry.* * *

* * * * *

(3) * * *

LUNCH PATTERN FOR INFANTS

	Birth through 3 months	4 through 7 months	8 through 11 months
Lunch	4–6 fl. oz. formula [1] or breast milk [2 3]	4–8 fl. oz. formula [1] or breast milk [2 3]; 0–3 Tbsp. Infant cereal [1 4]; 0–3 Tbsp. Fruit and/or vegetable [4]	6–8 fl. oz. formula [1] or breast milk [2 3]; and 2–4 Tbsp. infant cereal [1]; and/or 1–4 Tbsp. meat, fish, poultry, egg yolk, cooked dry beans, or peas; or ½–2 oz. cheese; or 1–4 Tbsp. cottage cheese, cheese food, or cheese spread; and 1–4 Tbsp. fruit and/or vegetable.

[1] Infant formula and dry infant cereal shall be iron-fortified.
[2] It is recommended that breast milk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.
[4] A serving of this component shall be optional.

* * * * *

(j) * * *

(4) * * *

SUPPLEMENTS FOR INFANTS

	Birth through 3 months	4 through 7 months	8 through 11 months
Supplement (snack)	4–6 fl.oz. formula [1] or breast milk [2, 3]	4–6 fl. oz. formula [1] or breast milk [2 3]	2–4 fl. oz. formula [1], breast milk [2 3], or fruit juice [4]; 0–½ bread [5] or 0–2 crackers. [5]

[1] Infant formula shall be iron-fortified.
[2] It is recommended that breast milk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.
[4] Fruit juice shall be full-strength.
[5] Bread and bread alternates shall be made from whole-grain or enriched meal or flour. A serving of this component shall be optional.

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation for part 220 continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

2. In § 220.2:

a. Paragraph (k) is amended by removing the words ''formula or milk'' and adding in their place the words ''breast milk or iron-fortified infant formula''.

b. Paragraph (n) is amended by revising the first sentence to read as follows.

§ 220.2 Definitions.

* * * * *

(n) *Milk* means pasteurized fluid types of unflavored or flavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk except that, in the meal pattern for infants (0 to 1 year of age), milk means breast milk or iron-fortified infant formula. * * *

* * * * *

3. In § 220.8:

a. The introductory text in paragraph (i) is amended by removing the ninth and tenth sentences, revising the eleventh sentence, and adding two new sentences immediately following the eleventh sentence.

b. Paragraphs (i)(1), (i)(2) and (i)(3) are amended by adding the words ''breast milk or'' between the words ''of'' and ''iron-fortified infant formula''. Paragraph (i)(3) is further amended by removing the words ''or 6 to 8 fluid ounces of whole milk''.

c. A new table ''Breakfast Pattern for Infants'' is added after paragraph (i)(3).

The revision and additions specified above read as follow:

§ 220.8 Nutrition standards for breakfast and menu planning alternatives.

* * * * *

(i) * * * Either breast milk or iron-fortified infant formula shall be served for the entire first year. For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered. In these situations,

additional breast milk must be offered if the infant is still hungry. * * *

* * * * *

(3) * * *

BREAKFAST PATTERN FOR INFANTS

	Birth through 3 months	4 through 7 months	8 through 11 months
Breakfast	4–6 fl.oz. formula [1] or breast milk [2 3]	4–8 fl. oz. formula [1] or breast milk [2 3]; 0–3 Tbsp. Infant cereal [1, 4]	6–8 fl. oz. formula [1] or breast milk [2 3]; and 2–4 Tbsp. infant cereal [1]; and 1–4 Tbsp. fruit and/or vegetable.

[1] Infant formula and dry infant cereal shall be iron-fortified.
[2] It is recommended that breast milk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.
[4] A serving of this component shall be optional.

* * * * *

4. In § 220.8a:

a. The introductory text in paragraph (b) is amended by removing the ninth and tenth sentences, revising the eleventh sentence, and adding two new sentences immediately following the eleventh sentence.

b. Paragraphs (b)(1), (b)(2) and (b)(3) are amended by adding the words ''breast milk or'' between the words ''of'' and ''iron-fortified infant formula'' . Paragraph (b)(3) is further amended by removing the words ''or 6 to 8 fluid ounces of whole milk''.

c. A new table ''Breakfast Pattern for Infants'' is added after paragraph (b)(3).

The additions specified above read as follow:

§ 220.8a Breakfast components and quantities for the meal pattern.

* * * * *

(b) * * * Either breast milk or iron-fortified infant formula shall be served for the entire first year. For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered. In these situations, additional breast milk must be offered if the infant is still hungry. * * *

* * * * *

(3) * * *

BREAKFAST PATTERN FOR INFANTS

	Birth through 3 months	4 through 7 months	8 through 11 months
Breakfast	4–6 fl.oz. formula [1] or breast milk [2 3]	4–8 fl. oz. formula [1] or breast milk [2 3]; .. 0–3 Tbsp. Infant cereal [1 4]	6–8 fl. oz. formula [1] or breast milk [2 3]; and 2–4 Tbsp. Infant cereal [1]; and 1–4 Tbsp. Fruit and/or vegetable.

[1] Infant formula and dry infant cereal shall be iron-fortified.
[2] It is recommended that breast milk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.
[4] A serving of this component shall be optional.

* * * * *

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16 and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.2:

a. The definition of *Infant cereal* is amended by removing the words ''formula or milk'' and adding in their place the words ''breast milk or iron-fortified infant formula''.

b. The definition of *Infant formula* is revised.

c. The definition of *Milk* is amended by revising the first sentence.

The revisions specified above read as follow:

§ 226.2 Definitions

* * * * *

Infant formula means any iron-fortified formula intended for dietary use solely as a food for normal, healthy infants; excluding those formulas specifically formulated for infants with inborn errors of metabolism or digestive or absorptive problems. Infant formula, as served, must be in liquid state at recommended dilution.

* * * * *

Milk means pasteurized fluid types of unflavored or flavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk, except that, in the meal pattern for infants (0 to 1 year of age), milk means breast milk or iron-fortified infant formula. * * *

* * * * *

3. In § 226.20:

a. The introductory text in paragraph (b) is amended by removing the ninth and tenth sentences, revising the eleventh sentence, and adding two new sentences immediately following the eleventh sentence.

b. Paragraphs (b)(1), (b)(2), (b)(3)(i) and (b)(3)(ii) are amended by adding the words ''breast milk or'' between the words ''of'' and ''iron-fortified infant formula'' each time they appear. Paragraphs (b)(3)(i) and (b)(3)(ii) are further amended by removing the words ''or 6 to 8 fluid ounces whole milk'' each time they appear.

c. Paragraph (b)(3)(iii) is amended by removing the words ''whole milk'' and adding the words ''breast milk'' in their place.

d. The ''Child Care Infant Meal Pattern'' table in paragraph (b)(4) is revised.

The revisions and addition specified above read as follow:

§ 226.20 Requirements for meals.

* * * * *

(b) * * * Either breast milk or iron-fortified infant formula shall be served for the entire first year. For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered. In these situations, additional breast milk must be offered if the infant is still hungry.* * *

* * * * *

(4) * * *

CHILD CARE INFANT MEAL PATTERN

	Birth through 3 months	4 through 7 months	8 through 11 months
Breakfast	4–6 fl. oz. formula [1] or breast milk [2 3]	4–8 fl. oz. formula [1] or breast milk [2 3];	6–8 fl. oz. formula [1] or breast milk [2 3]; and
		0–3 Tbsp. Infant cereal [1 4]	2–4 Tbsp. Infant cereal [1,4]; and 1–4 Tbsp. Fruit and/or vegetable
Lunch or supper	4–6 fl. oz. formula [1] or breast milk [2, 3]	4–8 fl. oz. formula [1] or breast milk [2, 3];	6–8 fl. oz. formula [1] or breast milk [2, 3]; and
		0–3 Tbsp. Infant cereal [1, 4];	2–4 Tbsp. Infant cereal [1]; and/or
		0–3 Tbsp. Fruit and/or vegetable [4]	1–4 Tbsp. Meat, fish, poultry, egg yolk, cooked dry beans, or peas; or ½–2 oz. Cheese; or 1–4 Tbsp. Cottage cheese, cheese food, or cheese spread; and 1–4 Tbsp. Fruit and/or vegetable
Supplement (snack)	4–6 fl. oz. formula [1] or breast milk [2 3]	4–6 fl. oz. formula [1] or breast milk [2 3]	2–4 fl. oz. formula [1], breast milk [2 3], or fruit juice [5]; 0–½ bread [4 6] or 0–2 crackers [4 6]

[1] Infant formula and dry infant cereal shall be iron-fortified.
[2] It is recommended that breast milk be served in place of formula from birth through 11 months.
[3] For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.
[4] A serving of this component shall be optional.
[5] Fruit juice shall be full-strength.
[6] Bread and bread alternates shall be made from whole-grain or enriched meal or flour.

* * * * *

Dated: October 29, 1999.

Shirley R. Watkins,

Under Secretary for Food, Nutrition and Consumer Services.

[FR Doc. 99–29546 Filed 11–12–99; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1124, 1126, 1131, 1134, 1135, 1137, 1138, and 1139

[Docket No. DA–00–01]

Milk in the New England and Other Marketing Areas; Exemption of Handlers Operating Plants in Clark County, Nevada, From Order Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of statutory amendment.

SUMMARY: This document informs interested parties of an amendment to the Agricultural Marketing Agreement Act of 1937 (AMAA). A provision of the Agriculture Appropriations Bill, which was signed into law on October 22, 1999, amended the AMAA to exempt any handler operating a plant in Clark County, Nevada, from the pricing provisions of any Federal milk marketing order. The exemption is effective October 1, 1999.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Chief, Order Formulation Branch, USDA/AMS/Dairy Programs, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–7183, e-mail address john.borovies@usda.gov.

SUPPLEMENTARY INFORMATION: This document informs interested parties of an amendment to the AMAA which exempts any handler operating a plant in Clark County, Nevada, from the pricing provisions of any Federal milk marketing order. The effect of this amendment is to remove any handler operating a plant in Clark County, Nevada, from the Federal milk marketing order framework. The amendment appears in the Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (P.L. 106–78), (i.e., Agriculture Appropriations Bill). In passing this amendment, the congressional intent was that ''the price of milk paid by a handler at a plant operating in Clark County, Nevada, shall not be subject to the Agricultural Marketing Agreement Act of 1937.''

Beginning October 1, 1999, in addition to being exempted from complying with the pricing provisions of any federal milk marketing order, any handler operating a plant in Clark County, Nevada, will not be subject to other order provisions such as pooling, reporting, and assessments. This is because the major objective of every Federal milk marketing order is the pricing of milk in order to achieve orderly marketing. Once the enforcement of minimum pricing is no longer applicable, other order provisions, such as pooling, classification, and reporting, which are used to determine who should be regulated and the degree to which such persons should be regulated would serve no useful purpose.

Accordingly, this action is effective October 1, 1999, as indicated by the law.

List of Subjects in 7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1124, 1126, 1131, 1134, 1135, 1137, 1138, and 1139

Milk marketing orders.

The authority citation for 7 CFR Parts 1001 through 1139 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: November 9, 1999.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 99–29725 Filed 11–12–99; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 9007, 9034, 9035 and 9038

[Notice 1999–26]

Public Financing of Presidential Primary and General Election Candidates

AGENCY: Federal Election Commission.

ACTION: Final rule and transmittal of regulations to Congress.

SUMMARY: The Commission is revising several portions of its regulations governing the public financing of Presidential primary and general election campaigns. These regulations implement the provisions of the Presidential Election Campaign Fund Act (''Fund Act'') and the Presidential Primary Matching Payment Account Act (''Matching Payment Act''), which indicate how funds received under the public financing system may be spent. In addition, these statutes require the Commission to audit publicly financed campaigns and seek repayment where appropriate. The revised rules modify the Commission's audit procedures. They also address the ''bright line'' between primary and general election expenses, and the formation of Vice Presidential committees prior to nomination. Further information is provided in the supplementary information that follows.

DATES: Further action, including the publication of a document in the **Federal Register** announcing an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 26 U.S.C. 9009(c) and 9039(c).

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Assistant General Counsel, 999 E Street, NW., Washington, DC. 20463, (202) 694–1650 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of revisions to its regulations governing audits of public financing of Presidential campaigns, 11 CFR 9007.1 and 9038.1. In addition, the final rules at 11 CFR 9034.4(e)(1) and (3) govern the division of expenditures between primary and general election campaign committees. New rules set out in 11 CFR 9035.3 address situations where a Vice Presidential campaign committee is formed prior to the date on which that candidate's political party selects its Presidential and Vice Presidential nominees. The new and revised regulations implement 26 U.S.C. 9007, 9034, 9035, and 9038.

On December 16, 1998, the Commission issued a Notice of Proposed Rulemaking (NPRM) in which it sought comments on proposed revisions to these regulations and on a number of other aspects of the Commission's public funding regulations. 63 FR 69524 (Dec. 16, 1998). In response to the NPRM, written comments addressing these topics were received from Perot for President '96; Common Cause and Democracy 21 (joint comment); Lyn Utrecht, Eric Kleinfeld, and Patricia Fiori (joint comment); the Democratic National Committee; and the Republican National Committee. The Internal Revenue Service stated that it has reviewed the NPRM and finds no conflict with the Internal Revenue Code or regulations thereunder. Subsequently, the Commission reopened the comment period and held a public hearing on March 24, 1999, at which the following witnesses presented testimony on these issues: Lyn Utrecht (Ryan, Phillips, Utrecht & MacKinnon), Joseph E. Sandler (Democratic National Committee), and Thomas J. Josefiak (Republican National Committee).

Please note that the Commission has already published separately final rules regarding other aspects of the public funding system. For example, revised candidate agreement regulations require federally financed Presidential committees to file their reports electronically. *See* Explanation and Justification of 11 CFR 9003.1 and 9033.1, 63 FR 45679 (August 27, 1998). Those regulations took effect on November 13, 1998. *See* Announcement of Effective Date, 63 FR 63388 (November 13, 1998). In addition, the Commission has issued two sets of final rules governing the matchability of contributions made by credit and debit cards, including those transmitted over the Internet. *See* Explanation and Justification of 11 CFR 9034.2 and 9034.3, 64 FR 32394 (June 17, 1999); Explanation and Justification of 11 CFR 9036.1 and 9036.2, 64 FR 42584 (Aug. 5, 1999). The effective date for the new matching fund rules was January 1, 1999. *See* Announcements of Effective Date, 64 FR 51422 (Sept. 23, 1999) and 64 FR 59607, (Nov. 3, 1999). Final rules concerning coordinated party committee expenditures in the pre-nomination period and reimbursement by the news media for travel expenses have also been issued. *See* Explanation and Justification of 11 CFR 110.7, 9004.6 and 9034.6, 64 FR 42579 (Aug. 5, 1999) and Announcement of Effective Date, 64 FR 59606 (Nov. 3, 1999). In addition, final rules concerning GELAC funds, capital assets, primary compliance and winding down costs, documentation of disbursements, digital images of matching fund documentation, convention committees and host committees have also been issued. *See* Explanation and Justification, 64 FR 49355 (Sept. 13, 1999).

Sections 9009(c) and 9039(c) of Title 26, United States Code, require that any rules or regulations prescribed by the Commission to carry out the provisions of Title 26 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. The final rules that follow were transmitted to Congress on Nov. 9, 1999.

Explanation and Justification

Section 9007.1 Audits

In 1995, the Commission amended 11 CFR 9007.1, 9007.2, 9038.1, and 9038.2 to reduce the amount of time it takes to audit publicly funded Presidential committees, to make repayment determinations, and to complete the enforcement process for these committees. One change was the elimination of a Commission-approved Interim Audit Report, which was replaced by a staff-produced Exit Conference Memorandum that is provided to the audited committee at the exit conference. These steps were taken to ensure adherence to the three year time period specified in 26 U.S.C. 9007(c) and 9038(c) for notifying publicly funded committees of the Commission's repayment determinations. After operating under the streamlined procedures during the 1996 election cycle, the Commission began to consider further changes to ensure the audit and repayment processes are completed as fairly and expeditiously as possible.

The narrative portion of the 1998 NPRM presented two alternatives to the current audit procedures. The first approach is to return to the audit procedures used for the 1992 Presidential candidates who received primary or general election funding. Under the previous system, the Commission's Audit Division conducted an exit conference at the close of audit fieldwork to discuss its preliminary findings and recommendations. However, no written Exit Conference

Memorandum was prepared or presented to the committee during the exit conference. Instead, an Interim Audit Report containing a preliminary calculation of future repayment obligations was subsequently prepared for consideration and approval by the Commission in executive session. After that, the audited committee had an opportunity to submit materials disputing or commenting on matters contained in the Interim Audit Report. Next, the Audit Division prepared a Final Audit Report containing initial repayment determinations. The Final Audit Report was considered by the Commission in an open session. Twenty-four hours before the Final Audit Report was released to the public, copies were provided to the candidate and the committee.

The second alternative set out in the NPRM is to retain many of the current audit procedures, with the exception that the Exit Conference Memorandum would be approved by a majority vote of four Commissioners before it is presented to the candidate's committee during the exit conference. In addition to these alternatives, the NPRM sought comments on making no changes to the audit procedures used for the 1996 Presidential campaign committees.

Several written comments and witnesses at the public hearing addressed the Commission's audit procedures. Three written comments urged the Commission to retain the current procedures for conducting post-election audits. One of these stated that the interest of the public in a rapid resolution of each audit is paramount, particularly given that the public funds for the program come from voluntary tax check-offs by individual taxpayers. This commenter praised the streamlined process put in place for the 1996 audits for enabling the agency's audit staff to work efficiently, with no waste of time. The commenter believed that the experience with certain well-publicized 1996 audits showed that both the press and the American public understand that audit reports are staff documents until expressly approved by the Commission. Two commenters opposed any change that would cloak more of the audit process in secrecy as contrary to the spirit of the Government in the Sunshine Act. They felt there was great public benefit in seeing the staff recommendations and the Commission's disposition of them.

In contrast, two of the witnesses at the hearing urged the Commission to return to the previous system or to find a way to produce greater interaction between the Commissioners and the audited committees earlier in the process. It was suggested that at a minimum, the Commission should change the procedure so that the Exit Conference Memorandum is approved by the Commission in closed session. These witnesses indicated that the goal of the new system, which was to expedite the audit process, has not been achieved. One of them argued that it is harmful to the regulated community and the credibility of the Commission when staff exit conference findings are publicly disclosed without prior input from the Commissioners, and are later substantially modified by the Commission. Another concern expressed is that the current system forces committees to devote substantial resources to responding to Audit Division conclusions and legal theories that are not necessarily supported by the Commission. One of these witnesses also maintained that the current system does not adequately protect confidentiality, and does not produce a fair and balanced presentation of a committee's financial picture.

After carefully considering the comments and testimony on the various alternatives, the Commission has decided to retain certain elements of the current procedures, such as the exit conference, while also returning to some of the previous procedures. Thus, the Exit Conference Memorandum is being dropped in favor of a Preliminary Audit Report that will be approved by the Commission before it is provided to the audited committee after the exit conference. The Commission anticipates that a written legal analysis will be prepared to assist the Commission in its consideration of the Preliminary Audit Report. This step will ensure that before audited committees are asked for a response to the Audit staff's findings, they are apprised of the Commission's preliminary views on various financial aspects of their campaign operations as well as the legal issues raised by those activities. These changes are incorporated into revised paragraphs (b)(2)(iii), (c) and (d)(1) of section 9007.1. These portions of the regulations have also been reorganized so that the Preliminary Audit Report is addressed in paragraph (c).

Please note that Commission consideration of draft Preliminary Audit Reports will usually be done either by using its tally voting procedures or in executive session. Closure of these discussions to the general public is generally appropriate under the Government in the Sunshine Act because the premature disclosure of this information would be likely to have a considerable adverse effect on future Commission actions. *See* 5 U.S.C. 552b(c) and 11 CFR 2.4(b). Closing the discussion is also appropriate for those situations where the Commission reasonably contemplates that the discussion may lead to an enforcement action, the issuance of a subpoena, or litigation.

The new procedure has the advantage that when the staff-prepared final Audit Report is subsequently released, the public and the press may be assured that this document reflects the views expressed by the Commission at the time the Preliminary Audit Report was approved, as well as the committee's response to the Preliminary Audit Report.

A significant consideration in changing these procedures is the length of time it takes to complete the entire process in light of the statutory requirement that any notification of a repayment be made no later than three years after the end of the matching payment period or after the date of the general election. 26 U.S.C. 9007(c) and 9038(c). In *Dukakis* v. *Federal Election Commission*, 53 F.3d 361 (D.C. Cir. 1995) and *Simon* v. *Federal Election Commission*, 53 F.3d 356 (D.C. Cir. 1995), the court determined that the preliminary calculation contained in the Interim Audit Report did not constitute sufficient notification of repayment obligations. Thus, the court concluded that the Commission's previous regulation at 11 CFR 9038.2(a)(2), which stated that the Interim Audit Report constituted notification, was inconsistent with the statute. *Simon* at 360.

The Commission notes that the time involved in obtaining Commission approval of the Preliminary Audit Report may, in some instances, make it more difficult to notify committees of their repayment requirements within the three year time frame established by 26 U.S.C. 9007(c) and 9038(c). Nevertheless, this initial investment of time may be balanced by significant time savings during the later stages of the process if a number of issues have been resolved earlier.

Please note that the amendments to section 9007.1 of the regulations also apply to the audits of the federally financed convention committees under 11 CFR 9008.11.

Section 9034.4 Use of Contributions and Matching Payments

The Fund Act, the Matching Payment Act, and the Commission's regulations require that publicly financed Presidential candidates use primary election funds only for expenses incurred in connection with primary elections, and that they use general

election funds only for general election expenses. 26 U.S.C. 9002(11), 9032(9); 11 CFR 9002.11 and 9032.9. These requirements are necessary to effectuate the spending limits for both the primary and the general election, as set forth at 2 U.S.C. 441a(b) and 26 U.S.C. 9035(a). *See also* 11 CFR 110.8(a) and 9035.1(a)(1).

In 1995, the Commission sought to provide more specific guidance as to which expenses should be attributed to a candidate's primary campaign and which ones should be considered general election expenses. Consequently, paragraph (e)(1) of section 9034.4 was promulgated at that time to specify that the costs of goods or services used exclusively for the primary must be attributed to the primary. Similarly, any expenditures for goods or services used exclusively for the general election had to be attributed to the general election. Paragraphs (e)(2) through (e)(7) established a number of specific attribution rules for polling expenses, campaign offices, staff costs, campaign materials, media production and distribution costs, campaign communications and travel costs, which were largely based on the timing of the expenditure. One of the purposes of these rules was to eliminate much of the time- and labor-intensive work of examining thousands of individual expenditures, thereby helping to streamline the audit process.

During the last Presidential election cycle, several questions were raised regarding the application of the ''bright line'' rules, including the application of the specific provisions in paragraphs (e)(2) through (e)(7) instead of the general rule set out in former paragraph (e)(1). The NPRM proposed adding an additional sentence to paragraph (e)(1) to indicate that the specific rules were intended to apply to ''mixed'' expenditures that are used in both the primary and the general election campaigns. One witness opposed what was perceived to be a new ''benefit derived'' standard. This witness argued for preserving the original bright line standard in the 1995 regulations in lieu of any of the changes proposed. Please note, the NPRM did not intend to suggest that the bright line rules were to be replaced by a new ''benefit derived'' standard. However, given the confusion generated by the proposed amendatory language, it is not being included in the final rules that follow. Instead, paragraph (e)(1) is being modified to more clearly state that the general rule applies only to goods or services not covered by the more specific provisions of paragraphs (e)(2) through (e)(7) of section 9034.4.

The Commission has also decided, that certain additional revisions to these rules are warranted. For example, paragraph (e)(3) of section 9034.4 is being amended to resolve questions that have come up regarding payroll and overhead costs for the use of campaign offices prior to the candidate's nomination. The previous rules had specified that such expenses must be attributed to the primary election unless the office is used by persons working exclusively on general election preparations. ''Exclusive use'' was not defined in the rules, and questions arose as to whether the term meant several hours, or days, or weeks. The NPRM suggested changing this exception to apply to periods when the campaign office is used only by persons working ''full time'' on general election campaign preparation, or in the alternative, dropping the exclusive use exception with regard to overhead and salary expenses. The public comments indicated that a ''full time'' standard would not be clearer that ''exclusive use.''

To resolve these difficulties, the Commission has decided to remove the ''exclusive use'' exception from paragraph (e)(3) governing office overhead and salaries, and also from the general rule in paragraph (e)(1). Instead, under the revised rule, salary and overhead costs incurred between June 1 of the Presidential election year and the date of the nomination are treated as primary expenses. However, Presidential campaign committees have the option of attributing to the general election an amount of salary and overhead expenses incurred during this period up to 15% of the primary election spending limit, which is set forth at 11 CFR 110.8(a)(1). This approach recognizes that during this period, some campaign staff and a portion of the committee's state and national office space must necessarily be devoted to general election activities. The 15% figure has the advantage of simplicity and ease of application. It is intended to give campaigns a reasonable amount of flexibility, and is based on an estimate of the highest amount that similarly situated campaigns have spent on salary and overhead costs during a comparable three-month period in the 1996 election cycle. The revised regulation does not permit committees to demonstrate that they have actually incurred a higher amount because the ''bright line'' rules are intended to avoid a resource-intensive system that requires the creation, maintenance, and review of considerable paperwork to document these types of costs.

Please note that other revisions have already been made to paragraph (e) of section 9034.4 to reflect that not all candidates may accept public funding in both the primary and the general election. *See* final rules at 64 FR 49355 (Sept. 13, 1999). At that time paragraph (e) was amended to indicate that it applies to Presidential campaign committees that accept federal funds for either election. Thus, the 15% limitation specified in paragraph (e)(3) applies to those committees that accept federal funding for the general election but not the primary. In addition, a new sentence is also being added to paragraph (e)(3) to clarify that overhead and payroll expenses for winding down and compliance activities are covered by paragraph (a)(3) of section 9034.4.

Another concern expressed by the commenters is the manner in which the 1995 bright line rules were interpreted and applied during the audits of the 1996 campaigns. Some comments opposed extending the bright line rules for candidate committees to party committees. The Commission notes that a variety of issues involving party committee coordinated expenditures may be addressed in a new rulemaking.

Section 9035.3 Contributions to and Expenditures by Vice Presidential Committees

The NPRM sought comments on a possible new rule to clarify the status of expenditures made by political committees formed by Vice Presidential candidates prior to their official nomination at their parties' conventions. It has been the Commission's policy in the past to permit such committees to raise contributions and make expenditures for the purpose of defraying the travel, lodging and subsistence expenses of the eventual Vice Presidential nominee and his or her entourage during the nominating convention. However, during the 1996 Presidential election cycle, concerns were raised that these committees have the ability to raise and spend substantially more money than what is needed to cover convention costs. Consequently, this situation presented an opportunity for Vice Presidential committees to be used prior to the date of nomination to supplement the limited amounts that publicly funded Presidential candidates may spend on their primary campaigns. Another concern is that some who have made the maximum contribution permitted by the FECA to a Presidential primary candidate may seek to evade these statutory limits by making additional contributions to the campaign committee of the person

chosen to be that candidate's Vice Presidential running mate.

For these reasons, the Commission is adding new section 9035.3 to specify when contributions to, and expenditures by, Vice Presidential committees shall be aggregated with contributions to and expenditures by the primary campaign of that party's eventual Presidential nominee for purposes of the contribution and expenditure limitations. Paragraph (a) of this new section provides for such aggregation beginning on the date that either the future Presidential or Vice Presidential nominee publicly indicates that the two candidates intend to run on the same ticket. Aggregation of contributions and expenditures will also begin when the Vice Presidential candidate accepts an offer to be the running mate, or when the committees of these two candidates become affiliated under 11 CFR 100.5(g)(4). Please note that with regard to expenditures, paragraph (b) limits the application of new section 9035.3 to the campaign expenditures made by a candidate who becomes the Vice Presidential nominee of his or her party, thus excluding others who lose the Vice Presidential nomination.

Both of the comments addressing new section 9035.3 opposed certain aspects of the proposed rule. One comment argued that Vice Presidential committees are entirely separate from any Presidential committee until the Vice Presidential candidate is nominated at the convention. This commenter also expressed concerns that by aggregating expenses, the presidential campaign committee could inadvertently exceed the spending limits. The Commission agrees that Presidential committees must monitor this spending, just as state party committees must track expenditures by subordinate party committees to ensure compliance with the coordinated spending limits of 2 U.S.C. 441a(d). The commenter also noted that those who contribute to both the Presidential candidate and the Vice Presidential candidate risk exceeding the primary contribution limits. The Commission agrees that the recipient committees need to aggregate contributions from the same contributor to prevent the making or acceptance of excessive contributions. This is no different than the requirement to aggregate contributions made to affiliated committees.

Paragraph (b) of the new section also contains an exception permitting a Vice Presidential candidate and his or her family and staff to attend the party's nominating convention without having the cost of their transportation, lodging, and subsistence attributed to the party's Presidential candidate. One commenter agreed that Vice Presidential candidates should be able to raise money to pay these expenses. It was also suggested that the Vice Presidential committee should be able to pay legal and accounting expenses incurred during the background checks of the prospective Vice Presidential nominee. The Commission agrees with this suggestion and is promulgating new language to cover these legal and accounting costs. In addition, the costs of raising funds for these limited travel, subsistence, legal and accounting expenses also do not need to be treated as expenditures of the Presidential primary candidate. Please note, if a Vice Presidential committee has excess funds after the nomination, 11 CFR 113.2 governs the use of these funds.

A commenter questioned the Commission's statutory authority for the new regulation and noted that 2 U.S.C. 441a(b)(2) treats expenditures made on behalf of a Vice Presidential nominee as expenditures on behalf of the party's Presidential nominee. *See also* 11 CFR 110.8(f). This provision of the FECA, however, is not applicable prior to the nomination of the Vice Presidential candidate. The Commission notes that at the time section 441a(b)(2) of the FECA was enacted, Congress may not have anticipated that both the Presidential candidates and their running mates may be known well before the actual date of nomination. Nevertheless, the Commission disagrees with the commenter's assumption that attribution under any other situation is contrary to the statute. In recent years, the primaries in many states have been moved to earlier dates in the election year. This means that Presidential candidates may reach their primary spending limits earlier in the election year, which may encourage the creation of Vice Presidential campaign committees at an earlier stage of the process than Congress anticipated when enacting the FECA. The Commission's new regulations merely make explicit that once a Vice Presidential running mate is chosen, the authorized committees of the two candidates would ordinarily be considered affiliated. *See* 2 U.S.C. 441a(a)(5) and 11 CFR 100.5(g)(4) and 110.3. Moreover, nothing in the FECA or the Matching Payment Act specifically bars pre-nomination aggregation of contributions or expenditures under these circumstances.

Section 9038.1 Audit

This section sets forth procedures for auditing the campaign committees of primary election candidates who receive federal funds. The changes to paragraphs (b)(2)(iii), (c) and (d)(1) of this section follow the revisions to 11 CFR 9007.1(b)(2)(iii), (c) and (d)(1), as discussed above.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached final rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that very few small entities will be affected by these rules, and the cost is not expected to be significant. Further, any small entities affected have voluntarily chosen to receive public funding and to comply with the requirements of the Presidential Election Campaign Fund Act or the Presidential Primary Matching Payment Account Act in these areas.

List of Subjects

11 CFR Part 9007

Administrative practice and procedure, Campaign funds.

11 CFR Parts 9034 and 9035

Campaign funds, Reporting and recordkeeping requirements.

11 CFR Part 9038

Administrative practice and procedure, Campaign funds.

For the reasons set out in the preamble, Subchapters E and F of Chapter I of Title 11 of the Code of Federal Regulations are amended as follows:

PART 9007—EXAMINATIONS AND AUDITS; REPAYMENTS

1. The authority citation for part 9007 continues to read as follows:

Authority: 26 U.S.C. 9007 and 9009(b).

2. In § 9007.1, paragraphs (b)(2)(iii) and (c) and the second sentence of paragraph (d)(1) are revised to read as follows:

§ 9007.1 Audits.

* * * * *

(b) * * *

(2) * * *

(iii) *Exit conference.* At the conclusion of the fieldwork, Commission staff will hold an exit conference to discuss with committee representatives the staff's preliminary findings and recommendations that the

staff anticipates it will present to the Commission for approval. Commission staff will advise committee representatives at this conference of the committee's opportunity to respond to these preliminary findings; the projected timetables regarding the issuance of the Preliminary Audit Report, the Audit Report, and any repayment determination; the committee's opportunity for an administrative review of any repayment determination; and the procedures involved in Commission repayment determinations under 11 CFR 9007.2.

* * * * *

(c) *Preliminary Audit Report: Issuance by Commission and committee response.*

(1) Commission staff will prepare a written Preliminary Audit Report, which will be provided to the committee after it is approved by an affirmative vote of four (4) members of the Commission. The Preliminary Audit Report may include—

(i) An evaluation of procedures and systems employed by the candidate and committee to comply with applicable provisions of the Federal Election Campaign Act, the Presidential Election Campaign Fund Act and Commission regulations;

(ii) The accuracy of statements and reports filed with the Commission by the candidate and committee; and

(iii) Preliminary calculations regarding future repayments to the United States Treasury.

(2) The candidate and his or her authorized committee may submit in writing within 60 calendar days after receipt of the Preliminary Audit Report, legal and factual materials disputing or commenting on the proposed findings contained in the Preliminary Audit Report. In addition, the committee shall submit any additional documentation requested by the Commission. Such materials may be submitted by counsel if the candidate so desires.

(d) * * *

(1) * * * The Commission-approved audit report may address issues other than those contained in the Preliminary Audit Report. * * *

* * * * *

PART 9034—ENTITLEMENTS

3. The authority citation for part 9034 continues to read as follows:

Authority: 26 U.S.C. 9034 and 9039(b).

4. Section 9034.4 is amended by revising paragraphs (e)(1) and (e)(3) to read as follows:

§ 9034.4 Use of contributions and matching payments.

* * * * *

(e) * * *

(1) *General rule.* Any expenditure for goods or services that are used for the primary election campaign, other than those listed in paragraphs (e)(2) through (e)(7) of this section, shall be attributed to the limits set forth at 11 CFR 9035.1. Any expenditure for goods or services that are used for the general election campaign, other than those listed in paragraphs (e)(2) through (e)(7) of this section, shall be attributed to the limits set forth at 11 CFR 110.8(a)(2), as adjusted under 11 CFR 110.9(c).

* * * * *

(3) *State or national campaign offices.* Prior to the date of the last primary election in a Presidential election year, overhead and salary costs incurred in connection with state or national campaign offices shall be attributed to the primary election. With regard to overhead and salary costs incurred on or after June 1 of the Presidential election year, but before or on the date of nomination, the committee may attribute to the general election an amount not to exceed 15% of the limitation on primary-election expenditures set forth at 11 CFR 110.8(a)(1). Overhead and payroll costs associated with winding down the campaign and compliance activities shall be governed by paragraph (a)(3) of this section.

* * * * *

PART 9035—EXPENDITURE LIMITATIONS

5. The authority citation for part 9035 continues to read as follows:

Authority: 26 U.S.C. 9035 and 9039(b).

6. Section 9035.3 is added to read as follows:

§ 9035.3 Contributions to and expenditures by Vice Presidential candidates.

(a) *Aggregation of contributions and expenditures.* For purposes of the limitations on contributions and expenditures of this part and part 110, contributions to, and expenditures by, the authorized committee of a candidate who becomes the nominee of a political party for the office of Vice President of the United States shall be aggregated with contributions to and expenditures by the publicly funded primary candidate who obtains that political party's nomination for the office of President of the United States, provided that the contributions to or expenditures by the authorized committee of the Vice Presidential candidate were made on or after the date on which—

(1) The Presidential or Vice Presidential candidate publicly indicates that the two candidates intend to run on the same ticket;

(2) The candidate for the office of Vice President accepts an offer by the publicly funded primary candidate for the office of President, or by the Presidential candidate's agent(s), to run on the same ticket; or

(3) The Presidential and Vice Presidential committees become affiliated pursuant to 11 CFR 100.5(g)(4)(i) or (ii).

(b) *Exceptions.* The following expenditures, if incurred by the authorized committee of a candidate who subsequently becomes the nominee of a political party for the office of Vice President of the United States, will not be aggregated under paragraph (a) of this section:

(1) The cost of attendance by the candidate, the candidate's family, and the candidate's authorized committee's staff at a political party's national nominating convention, including the cost of transportation, lodging, and subsistence;

(2) The cost of legal and accounting services associated with background checks during the Vice Presidential selection process; and

(3) The cost of raising funds for the expenses listed in paragraphs (b)(1) and (b)(2) of this section.

PART 9038—EXAMINATIONS AND AUDITS

7. The authority citation for part 9038 continues to read as follows:

Authority: 26 U.S.C. 9038 and 9039(b).

8. In § 9038.1, paragraphs (b)(2)(iii) and (c) and the second sentence of paragraph (d)(1) are revised to read as follows:

§ 9038.1 Audit.

* * * * *

(b) * * *

(2) * * *

(iii) *Exit conference.* At the conclusion of the fieldwork, Commission staff will hold an exit conference to discuss with committee representatives the staff's preliminary findings and recommendations that the staff anticipates it will present to the Commission for approval. Commission staff will advise committee representatives at this conference of the committee's opportunity to respond to these preliminary findings; the projected timetables regarding the issuance of the Preliminary Audit Report, the Audit Report, and any

repayment determination; the committee's opportunity for an administrative review of any repayment determination; and the procedures involved in Commission repayment determinations under 11 CFR 9038.2.

* * * * *

(c) *Preliminary Audit Report: Issuance by Commission and committee response.*

(1) Commission staff will prepare a written Preliminary Audit Report, which will be provided to the committee after it is approved by an affirmative vote of four (4) members of the Commission. The Preliminary Audit Report may include—

(i) An evaluation of procedures and systems employed by the candidate and committee to comply with applicable provisions of the Federal Election Campaign Act, the Presidential Election Campaign Fund Act and Commission regulations;

(ii) The accuracy of statements and reports filed with the Commission by the candidate and committee; and

(iii) Preliminary calculations regarding future repayments to the United States Treasury.

(2) The candidate and his or her authorized committee may submit in writing within 60 calendar days after receipt of the Preliminary Audit Report, legal and factual materials disputing or commenting on the proposed findings contained in the Preliminary Audit Report. In addition, the committee shall submit any additional documentation requested by the Commission. Such materials may be submitted by counsel if the candidate so desires.

(d) * * *

(1) * * * The Commission-approved audit report may address issues other than those contained in the Preliminary Audit Report. * * *

* * * * *

Dated: November 9, 1999.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 99–29694 Filed 11–12–99; 8:45 am]

BILLING CODE 6715–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–70–AD; Amendment 39–11407; AD 99–23–11]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146 and Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146 and Avro 146–RJ series airplanes, that requires repetitive inspections to detect signs of chafing to the fuel feed pipe, and repair or replacement of the fuel feed pipe with a serviceable part, if necessary; and ensuring that responder units, electrical connector backshells, and associated wiring are undamaged and are positioned correctly to provide maximum clearance with the fuel pipe. 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 damage to the fuel feed pipe, which could result in fuel leaks and an increased potential for fire on the airplane.

DATES: Effective December 20, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of December 20, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146 and Avro 146–RJ series airplanes was published in the **Federal Register** on August 12, 1999 (64 FR 43955). That action proposed to require repetitive inspections to detect signs of chafing to the fuel feed pipe, and repair or replacement of the fuel feed pipe with a serviceable part, if necessary; and ensuring that responder units, electrical connector backshells, and associated wiring are undamaged and are positioned correctly to provide maximum clearance with the fuel pipe.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Change the Repetitive Inspection Interval

One commenter, the manufacturer, states that the repetitive inspection interval required by paragraph (a) of the proposed AD is not consistent with the interval described in the service bulletin. The service bulletin indicates that the interval should be at each ''C'' check, which the manufacturer has confirmed to be at 4,000 flight cycles, or within 2 years, whichever occurs first.

The FAA infers that the commenter is requesting that the inspection interval be revised to correspond to ''C'' check intervals. The FAA concurs. It was the FAA's intention to require repetitive inspections at an interval corresponding to the majority of operators' scheduled ''C'' checks. The interval in the proposed AD was erroneously stated as 3,000 flight hours. Based on the information provided by the manufacturer, the FAA has revised the repetitive inspection interval in paragraph (a) of the final rule to specify an inspection interval of 4,000 flight cycles, or within 2 years, whichever occurs first.

Request To Change the Cost Impact

The commenter estimates that there are 45 U.S.-registered airplanes affected by this AD. In the notice of proposed rulemaking, the FAA had estimated that 20 airplanes were affected.

The FAA concurs and has changed the cost impact paragraph in the final rule to indicate that 45 airplanes are affected by this AD.

Request To Change Service Information Address

The commenter states that the address used to obtain service information has been changed from AI(R) American Support to British Aerospace Regional Aircraft American Support. The remainder of the address is unchanged: 13850 Mclearen Road, Herndon, Virginia 20171.

The FAA concurs and has changed the final rule to indicate the new address.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 45 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, 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 $2,700, or $60 per airplane, per inspection cycle.

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:

99–23–07 British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited): Amendment 39–11407. Docket 99–NM–70–AD.

Applicability: Model BAe 146 and Avro 146–RJ series airplanes, except those on which Modification HCMO1638A (British Aerospace Service Bulletin SB.26–44–01638A, dated February 25, 1999) has been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 damage to the fuel feed pipe, which could result in fuel leaks and an increased potential for fire on the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a detailed visual inspection of the fuel feed pipe for signs of chafing, and ensure that responder units are undamaged and positioned correctly in relation to clamps and that electrical connector backshells and associated wiring are undamaged and are oriented to provide maximum clearance with the fuel pipe; in accordance with British Aerospace Service Bulletin SB.26–44, dated February 25, 1999.

(1) If no chafing is detected, repeat the inspection thereafter at intervals not to exceed 4,000 flight cycles or 2 years, whichever occurs first, until accomplishment of paragraph (b) of this AD.

(2) If any sign of chafing is detected, prior to further flight, accomplish paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable, in accordance with British Aerospace Service Bulletin SB.26–44, dated February 25, 1999. Repeat the inspection thereafter at intervals not to exceed 4,000 flight cycles or 2 years, whichever occurs first, until accomplishment of paragraph (b) of this AD.

(i) If the damage does not exceed one-half the thickness of the fuel feed pipe wall, prior to further flight, repair the pipe.

(ii) If the damage exceeds one-half the thickness of the fuel feed pipe wall, prior to further flight, replace the pipe with a serviceable part.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(b) Modification of the clamping arrangement for the firewall responder units in accordance with British Aerospace Service Bulletin SB.26–44–01638A, dated February 25, 1999, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(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, FAA, Transport Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(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.

Incorporation by Reference

(e) The actions shall be done in accordance with British Aerospace Service

Bulletin SB.26–44, dated February 25, 1999. 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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. 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 4: The subject of this AD is addressed in British airworthiness directive 009–02–99.

(f) This amendment becomes effective on December 20, 1999.

Issued in Renton, Washington, on November 1, 1999.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–29055 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–48–AD; Amendment 39–11414; AD 99–23–18]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 407 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Bell Helicopter Textron Canada (BHTC) Model 407 helicopters. This action requires, before further flight, revising the life limits for certain parts and replacing each part that has exceeded its life limit. The AD also requires revising the applicable component history cards or equivalent records and the Airworthiness Limitations Schedule of the BHTC Model 407 maintenance manual to reflect these new life limits. This amendment is prompted by an engineering evaluation of additional flight test data, which resulted in redefining the service life for certain parts and revising the Airworthiness Limitations Schedule. The actions specified in this AD are intended to prevent a fatigue failure of certain parts that may have exceeded revised life limits and subsequent loss of control of the helicopter.

DATES: Effective November 30, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 14, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–48–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHTC Model 407 helicopters. Transport Canada advises that a recent engineering evaluation has led to changes in the airworthiness limitations of certain helicopter parts to account for repeated torque events in terms of the Retirement Index Number (RIN) or time-in-service.

BHTC has issued Alert Service Bulletin 407–98–22, dated December 10, 1998 (ASB), which specifies changes to the Airworthiness Limitations Schedule for certain parts to reflect the maximum life expressed in hours or by Retirement Index Numbers (RIN). Transport Canada classified this ASB as mandatory and issued Transport Canada AD CF–99–04, dated February 24, 1999, to ensure the continued airworthiness of these helicopters in Canada.

This helicopter model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 407 helicopters of the same type design registered in the United States, this AD is being issued to prevent a fatigue failure of certain parts that may have exceeded revised life limits. This AD requires, before further flight, establishing new life limits for certain parts and replacing each part that has exceeded its life limit. The AD also requires updating the component history cards or equivalent records for these parts. The short compliance time involved is required because the previously described critical unsafe condition could result in loss of control of the helicopter. Therefore, establishing a new life limit for certain parts and replacing each part that has exceeded its life limit is required prior to further flight and this AD must be issued immediately.

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.

The FAA estimates that 220 helicopters will be affected by this AD, that it will take approximately 21 work hours to replace all affected parts, and that the average labor rate is $60 per work hour. Required parts will cost approximately $39,109 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,881,180.

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 rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–48–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 that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 99–23–18 Bell Helicopter Textron Canada: Amendment 39–11414. Docket No. 99–SW–48–AD.

Applicability: Model 407 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters 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: Prior to further flight, unless accomplished previously.

To prevent a fatigue failure of certain parts that may have exceeded revised life limits and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove and replace with an airworthy part any of the following parts that exceed their revised life limits. Annotate the component history card or equivalent record with the revised life limits.

Part	Part No.	Former life limit	Revised life limit
Drive ring set	406–010–126–107	49,000 RIN	48,000 RIN.
Main rotor mast	407–040–038–101	5,000 hours TIS or 25,000 RIN	5,000 hours TIS or 18,000 RIN.
Left-hand pylon side beam	407–010–201–101	1,000 hours TIS	1,000 hours TIS or 5,500 RIN.
Right-hand pylon side beam	407–010–203–101	1,000 hours TIS	1,000 hours TIS or 5,500 RIN.
Pylon restraint spring	407–010–206–103	On-condition	5,000 hours TIS.

Note 2: Bell Helicopter Textron Canada (BHTC) Alert Service Bulletin 407–98–22, dated December 10, 1998, and Revision 9 to Chapter 4 of the Maintenance Manual BHT–407–MM–1 dated November 30, 1998, pertain to the subject of this AD.

(b) Revise the Airworthiness Limitations Schedule of the BHTC Model 407 maintenance manual by establishing or revising the retirement life for the parts as shown in paragraph (a).

(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, Regulations Group, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

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

(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 helicopter to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on November 30, 1999.

Note 4: The subject of this AD is addressed in Transport Canada AD CF–99–04, dated February 24, 1999.

Issued in Fort Worth, Texas, on November 3, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–29610 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airpace Docket No. 99–ANM–08]

Establishment of Class E Airspace; Glendive, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E En Route Domestic Airspace Area in the vicinity of Glendive, MT. The effect of this action is to provide controlled airspace for the development of an off-airway route between Bismarck, ND, and Glendive, MT.

EFFECTIVE DATE: 0901 UTC, December 30, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal

Aviation Administration, Docket No. 99–ANM–08, 1601 Lind Avenue S.W., Renton, Washington, 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On September 1, 1999, the FAA proposed to amend Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) by establishing the Glendive, MT, Class E En Route Domestic Airspace Area (64 FR 47718). This establishment of the Class E area is in support of an air taxi operator for the purpose of conducting direct routing in Instrument Flight Conditions (IFR) between Bismarck, ND, and Glendive, MT. The FAA establishes Class E airspace in those areas where there is a requirement to provide IFR en route air traffic control services but the Federal airway segment is inadequate. This rule allows controlled airspace between the two cities, thereby allowing direct route flight and saving considerable time over present available non-direct routes. Interested parties were invited to participant in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as en route domestic airspace areas are published in Paragraph 6006 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes an En Route Domestic Airspace Area in the vicinity of Glendive, MT. The intended effect of this rule is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under IFR between Bismarck, ND, and Glendive, MT.

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6006 Class E airspace designated as an en route domestic airspace area.

* * * * *

Glendive, MT [New]

That airspace extending upward from 1200 feet AGL bounded on the east by the west edge of V–493, on the south by the north edge of V–2, and on the northwest by the southeast edge of V–545.

* * * * *

Issued in Seattle, Washington, on October 26, 1999.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 99–29681 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

28 CFR Part 16

[AAG/A Order No. 180–99]

Privacy Act of 1974; Implementation

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is exempting a Privacy Act system of records from subsection (d) of the Privacy Act, 5 U.S.C. 552a. This system of records, the ''Practitioner Complaint/Disciplinary Files,'' (Justice/EOIR–003) contains information which relates to official Federal investigations and matters of law and regulatory enforcement of the Executive Office for Immigration Review (EOIR). Accordingly, where applicable, the exemptions are necessary to avoid interference with the law and regulatory enforcement functions of EOIR. Specifically, the exemptions are necessary for the following: To prevent subjects of investigations from frustrating the investigatory process; to preclude the disclosure of investigative techniques; to impede the identification of confidential sources and of law and regulatory enforcement personnel, as well as to protect their physical safety; to ensure EOIR's ability to obtain facts from information sources; to protect the privacy of third parties; and to safeguard classified information as required by Executive Order 12958.

DATE: This rule will be effective November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Mary E. Cahill, (202) 307–1823.

SUPPLEMENTARY INFORMATION: A proposed rule with invitation to comment was published in the **Federal Register** on September 10, 1999 at 64 FR 49117. No comments were received.

Regulatory Flexibility Act

This Order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have a ''significant economic impact on a substantial number of small entities.''

Executive Order 12988

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

Executive Order 12866

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

List of Subjects in Part 16

Administrative Practices and Procedures, Courts, Freedom of Information Act, Privacy Act, and Government in Sunshine Act.

Dated: November 2, 1999.

Stephen R. Colgate,

Assistant Attorney General for Administration.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, 28 CFR part 16 is amended as follows:

PART 16—[AMENDED]

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. 28 CFR 16.83 is amended by adding paragraphs (c) and (d) to read as follows:

§ 16.83 Exemption of the Executive Office for Immigration Review System—limited access.

* * * * *

(c) The following system of records is exempted form 5 U.S.C. 552a(d).

(1) Practitioner Compliant/Disciplinary Files (JUSTICE/EOIR 003). This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1), and (k)(2). To the extent that information in a record pertaining to an individual does not relate to national defense or foreign policy, official Federal investigations and/or law enforcement matters, the exemption does not apply. In addition, where compliance would not appear to interfere with or adversely affect the overall law or regulatory enforcement process, the applicable exemption may be waived by the Executive Office for Immigration Review.

(d) Exemption from subsection (d) is justified for the following reasons:

(1) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could inform the subject of the investigation of an actual or potential criminal, civil, or regulatory violation or the existence of that investigation; of the nature and scope of the information and evidence obtained as to the subject's activities; of the identity of confidential sources, witnesses, and law enforcement personnel; and of information that may enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law and regulatory enforcement where they prevent the successful completion of the investigation, endanger the physical safety of confidential sources, witnesses, and law enforcement personnel, and/or lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. In addition, granting access to such information could disclose security-sensitive or confidential business information or information that would constitute an unwarranted invasion of the personal privacy of third parties. Finally, access to the records could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an enormous administrative burden by requiring investigations to be continuously reinvestigated.

[FR Doc. 99–29509 Filed 11–12–99; 8:45 am]

BILLING CODE 4410–AR–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in December 1999. Interest assumptions are also published on the PBGC's web site (http://www.pbgc.gov).

EFFECTIVE DATE: December 1, 1999.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest assumptions. These interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest assumptions are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest assumptions for valuing benefits in plans with valuation dates during November 1999.

For annuity benefits, the interest assumptions will be 6.50 percent for the first 20 years following the valuation date and 5.25 percent thereafter. The annuity interest assumptions represent an increase (from those in effect for November 1999) of 0.20 percent for the first 20 years following the valuation date and are otherwise unchanged. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.25 percent for the period during which a benefit is in pay status, 4.50 percent during the seven-year period directly preceding the benefit's placement in pay status, and 4.00 percent during any other years preceding the benefit's placement in pay status. The lump sum interest assumptions represent an increase (from those in effect for November 1999) of 0.25 percent for the period during which a benefit is in pay status and for the seven-year period directly preceding the benefit's placement in pay status; they are otherwise unchanged.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during December 1999, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 74 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used To Value Annuities and Lump Sums

TABLE I.—ANNUITY VALUATIONS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, . . . , and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*		*	*
December 1999	.0650	1–20	.0525	>20	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq n_1 1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
74	12–1–99	1–1–00	5.25	4.50	4.00	4.00	7	8

Issued in Washington, DC, on this 8th day of November 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–29756 Filed 11–12–99; 8:45 am]

BILLING CODE 7708–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300943; FRL–6389–9]

RIN 2070–AB78]

Zinc phosphide; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for residues of the phosphine resulting from the use of the rodenticide zinc phosphide in or on potatoes and sugar beet (roots) at 0.05 part per million (ppm), and sugar beet (tops) at 0.1 ppm for an additional 1½ year period. These tolerances will expire and are revoked on December 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on potatoes and sugar beets. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective November 15, 1999. Objections and requests for hearings, identified by docket control number OPP–300943, must be received by EPA on or before January 14, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300943 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–9364; and e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300943. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of December 9, 1998 (63 FR 66794) (FRL–6046–1), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the residues of phosphine in or on potatoes and sugar beet (roots) at 0.05 ppm and sugar beet (tops) at 0.1 ppm, with an expiration date of May 1, 2000. EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of zinc phosphide on potatoes and sugar beets for this year's growing season due to continued losses expected by Idaho growers due to vole and mouse damage. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of zinc phosphide on potatoes and sugar beets for the control of voles and mice in Idaho.

EPA assessed the potential risks presented by residues of phosphine in or on potatoes, sugar beet (roots) and sugar beet (tops). In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of December 9, 1998 (63 FR 66794). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1½ year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on potatoes, sugar beet (roots), and sugar beet (tops) after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300943 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 14, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that

information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–300943, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule establishes tolerances under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994) or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). The Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). This action directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(n)(4). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

V. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: October 26, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.284 [Amended]

2. In section 180.284, by amending paragraph (b) by changing the date for the commodities potatoes, sugar beet (roots), and sugar beet (tops) ''5/1/00'' to read ''12/31/01''.

[FR Doc. 99–29770 Filed 11–12–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 96–111; FCC 99–325]

Common Carrier Services: Satellite Communications—Earth Stations Operating with Non-U.S. Licensed Space Stations; Application Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule; reconsideration.

SUMMARY: In this First Order on Reconsideration, the Commission streamlines the process it established in the 1997 DISCO II Order. First, the First Order on Reconsideration permits the operators of in-orbit non-U.S. satellites to request authority to provide space segment capacity service to licensed earth stations in the United States. Under DISCO II, this request can only be made by an earth station operator. Second, the Order permits earth station licensees to access a particular non-U.S. satellite to provide fixed-satellite service in the conventional C- or Ku-bands without further regulatory approval, once that non-U.S. satellite is authorized to serve the United States. The actions here are intended to simplify procedures for foreign entry into the U.S. market for fixed-satellite services, thereby enhancing competition. The Commission expects enhanced competition to provide consumers more alternatives in choosing communications providers and services, reduce prices, and facilitate technological innovation.

DATES: The amendments to § 25.137 contain information collection requirements and are not effective until OMB approval is received. The Commission will publish a document in the **Federal Register** announcing the effective date. Public comments on the modified information collection requirements are due on or before December 15, 1999. OMB comments are due January 14, 2000.

ADDRESSES: A copy of any comments on the information collection requirements should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC, 20554, or via the Internet to jboley@fcc.gov., and to Virginia Huth, OMB Desk Officer, Room 10236, 725—17th Street, NW, Washington, DC 20503 or via the Internet to VHuth@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Steven Spaeth, Satellite Policy Branch, Satellite and Radiocommunication Division, International Bureau, (202) 418–1539. For additional information concerning the collections contained in this document, contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Order on Reconsideration, adopted October 28, 1999, and released October 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th St., SW, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, 1231 20th St., NW, Washington, DC 20036.

Paperwork Reduction Act

The decision contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law 104–13, and has been found to contain new or modified information collection requirements that are subject to Office of Management and Budget (''OMB'') review. As part of the Commission's continuing effort to reduce paperwork burdens, we invite the general public and OMB to take this opportunity to comment on the information collections contained this decision, as required by the Paperwork Reduction Act of 1995. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden 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. Public comments on the information collection requirements are due on or before December 15, 1999; OMB comments are due January 14, 2000. A copy of any comments on the information collection requirements should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC, 20554, or via the Internet to jboley@fcc.gov., and to Virginia Huth, OMB Desk Officer, Room 10236, 725—17th Street, NW, Washington, DC 20503 or via the Internet to VHuth@omb.eop.gov.

OMB Approval Number: 3060–0678.

Title: Commission's Rules and Regulations for Satellite Application and Licensing Procedures.

Type of Review: Revision of an existing collection.

Respondents: Business and for-profit entities; not-for-profit entities.

Number of Respondents: 1,270.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion filing requirements and third-party disclosure requirements.

Total Estimated Annual Burden to Respondents: 2,540 hours.

Total Estimated Annual Cost to Respondents: $9,457,000.

Needs and Uses: The information accounted for in this collection is used by the Commission staff in carrying out its duties under the Communications Act and the WTO Basic Agreement. A non-U.S. licensed entity is required to provide the requested information when seeking to provide satellite service in the United States. U.S.-licensed satellite space and earth station applicants and licensees providing or seeking to provide service in conjunction with part 25 of the Commission's rules will continue to be required to submit the information requested therein. The information is used by the Commission to determine whether the entity is qualified, legally, technically, and financially to provide service and compete in the U.S. market and whether the requested authority is in the public interest. Without such information, the Commission could not determine whether to permit the respondent to provide telecommunication services in the United States and therefore fulfill its

statutory and responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the WTO Basic Agreement.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 603, as amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA), and the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (''IRFA'') in the Notice in this docket, 61 FR 32399 (June 24, 1996). In the DISCO II Order, the Commission prepared a Final Regulatory Flexibility Analysis (''FRFA'') of the possible significant economic impact this order might have on small entities, in conformance with the RFA. We hereby incorporate the FRFA herein, and nothing in this Order on Reconsideration requires us to revisit any of our conclusions in the FRFA.

Ordering Clauses

Accordingly, *It is ordered*, pursuant to sections 1, 2, 4(i), 303(r), 308, 309, and 310 of the Communications Act, 47 U.S.C. 151, 152, 154(i), 303(r), 308, 309, 310, and 47 CFR 1.108, the policies, rules, and requirements discussed herein *are adopted* and 47 CFR Part 25, *Is amended*.

It is further ordered, pursuant to 47 CFR 1.2, that non-U.S. satellite operators may request access to the United States to provide fixed-satellite services in the conventional C- and Ku-bands by submitting a Request for a Declaratory Ruling, accompanied by the information required in 47 CFR 25.114 and 25.137, for the non-U.S. satellite.

It is further ordered that the Commission will make public a list of non-U.S. satellites providing fixed-satellite services in the conventional C- and Ku-bands that have been approved to provide space segment capacity service in the United States, together with any applicable conditions or limitations on that access.

It is further ordered that earth stations licensed before the effective date of this Order that are authorized to access ''ALSAT'' as points of communications may access any satellite on the Permitted Space Station list, including any subsequent revisions to the list, when this Order becomes effective, provided that operations comply with its license and any applicable conditions or limitations placed on communications with the non-U.S. satellite providing fixed-satellite services in the conventional C- and Ku-bands.

It is further ordered that the amendments to Part 25 of the Commission's rules, 47 CFR Part 25, and the policies, rules, and requirements discussed herein shall take effect upon OMB approval of the information collection requirements. The Commission will publish a document in the **Federal Register** announcing the effective date and notifying parties that this rule has become effective. Public comments on the modified information collection requirements are due on or before December 15, 1999. OMB comments are due January 14, 2000.

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies sec. 303, 47 U.S.C. 303. 47 U.S.C. sections 154, 301, 302, 303, 307, 309, and 332, unless otherwise noted.

2. In § 25.137, revise paragraph (a) introductory text and paragraph (b) to read as follows:

§ 25.137 Application requirements for earth stations operating with non-U.S. licensed space stations.

(a) Earth station applicants or entities filing a ''letter of intent'' or ''Petition for Declaratory Ruling'' requesting authority to operate with a non-U.S. licensed space station to serve the United States must attach an exhibit with their FCC Form 312 application with information demonstrating that U.S.-licensed satellite systems have effective competitive opportunities to provide analogous services in:

* * * * *

(b) Earth station applicants, or entities filing a ''letter of intent,'' or ''Petition for Declaratory Ruling,'' requesting authority to operate with a non-U.S. licensed space station must attach to their FCC Form 312 an exhibit providing legal, financial, and technical information for the non-U.S. licensed space station in accordance with part 25 and part 100 of this chapter.

* * * * *

[FR Doc. 99–29538 Filed 11–12–99; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 64, No. 219
Monday, November 15, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI75

Prevailing Rate Systems; Abolishment of the King, Washington, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing a proposed rule that would abolish the King, Washington, nonappropriated fund (NAF) Federal Wage System (FWS) wage area, establish a new Snohomish, WA, NAF FWS wage area, and remove Whatcom County, WA, as an area of application. The abolishment of the King wage area and the establishment of a new Snohomish wage area is necessary because of the closure of the King wage area's host installation, Naval Station Puget Sound. This closure has left the Department of Defense without an installation in the survey area capable of hosting annual local wage surveys. The removal of Whatcom County is necessary because there are no longer any NAF FWS employees stationed in the county.

DATES: Comments must be received by December 15, 1999.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins by phone at (202) 606–2848, by FAX at (202) 606–0824, or by e-mail at jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: Because of the closure of the King, Washington, nonappropriated fund (NAF) wage area's host activity, Naval Station Puget Sound (NSPS), the Department of Defense (DOD) no longer has an activity in the survey area with the capability to conduct annual local NAF wage surveys. DOD recommended that the Office of Personnel Management (OPM) abolish the King, WA, NAF wage area and establish a new Snohomish, WA, NAF wage area. DOD also recommended that Whatcom County be removed from an NAF wage area definition because Blaine Air Force Station has closed, and there are no longer any NAF FWS employees stationed in Whatcom County. Under section 5343(a)(1)(B)(i) of title 5, United States Code, NAF wage areas ''shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed.'' Therefore, Whatcom County should not be defined as part of an NAF wage area. The King wage area is presently composed of one survey county, King County, and four area of application counties, Island, Snohomish, Whatcom, and Yakima Counties, WA. The new Snohomish, WA, NAF wage area would be composed of one survey county, Snohomish County, and three area of application counties, Island, King, and Yakima Counties, WA.

Under section 532.219(b) of title 5, Code of Federal Regulations, NAF wage areas are established when there are a minimum of 26 NAF wage employees in the survey area, the local activity has the capability to host annual local wage surveys, and there are within the survey area a minimum of 1,800 private enterprise employees in establishments within survey specifications. NSPS ceased operations in the summer of 1996 and relocated to Naval Station Everett in Snohomish County, WA. During this time, a full-scale wage survey was scheduled to begin in the King NAF wage area in July 1996. Because the host installation relocated, the local wage survey committee had to conduct the King survey from Naval Station Everett in Snohomish County. King County does not have another activity in the King survey area to host annual local wage surveys. However, Snohomish County meets the regulatory requirements to be established as a separate NAF survey area. There are approximately 103 NAF FWS employees stationed at Naval Station Everett, and the base has the capability to host annual local wage surveys. Also, Snohomish County has more than the required minimum number of private enterprise employees in establishments within survey specifications.

Section 532.219 of title 5, Code of Federal Regulations, lists the following criteria that OPM considers when defining FWS wage area boundaries:

(i) Proximity of largest activity in each county;

(ii) Transportation facilities and commuting patterns; and

(iii) Similarities of the counties in:

(A) Overall population;

(B) Private employment in major industry categories; and

(C) Kinds and sizes of private industrial establishments.

The closest major Federal installation to NSPS is Naval Station Everett. NSPS is approximately 45 km (28 miles) from Naval Station Everett. Commuting patterns indicate that 4 percent of the King County resident workforce commutes to Everett County. Transportation facilities consist of major interstate and highways and do not favor one county more than another. Also, a review of the similarities of the counties does not favor one county more than another. Based on an analysis of these regulatory criteria, OPM proposes to establish Snohomish, WA, as a new NAF wage area and define Island, King, and Yakima Counties, WA, as areas of application.

Full-scale wage surveys would be ordered in the Snohomish, WA, NAF wage area in July of even fiscal years, with the first full-scale wage survey for the Snohomish wage area beginning in July 2000. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has reviewed and concurred by consensus with these changes.

Regulatory Flexibility Act

I certify that this regulation would not have a significant economic impact on a substantial number of small entities because it would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix B to subpart B of part 532 is amended for the State of Washington by removing the entry for ''King'' and by adding alphabetically a new entry for ''Snohomish'' with a beginning survey month of ''July'' and a fiscal year of full-scale survey of ''Even'.

3. Appendix D to subpart B is amended by removing the wage area listing for King, Washington, and by adding alphabetically a new entry for Snohomish, Washington, to read as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

* * * * *

WASHINGTON

* * * * *

SNOHOMISH

Survey Area

Washington:
Snohomish

Area of Application. Survey area plus:

Washington:
Island
King
Yakima

* * * * *

[FR Doc. 99–29685 Filed 11–12–99; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM/STD–98–440]

RIN 1904–AA77

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Central Air Conditioners and Heat Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a workshop on the Supplemental Advance Notice of Proposed Rulemaking (ANOPR), which the Department expects to issue shortly, for Central Air Conditioners and Heat Pumps Energy Efficiency Standards Rulemaking.

DATES: December 9, 1999, 9 a.m.–5 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Avenue, SW, Room 1E–245, Washington, DC 20585–0121.

FOR FURTHER INFORMATION CONTACT: Dr. Michael E. McCabe, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–41, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–0854, e-mail: michael.e.mccabe@ee.doe.gov or Brenda Edwards-Jones, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–41, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–2945, e-mail: Brenda.Edwards-Jones@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Workshop

The Department will present its methodology and results pertaining to the analysis completed to date (Supplemental ANOPR analysis), answer questions to help participants prepare their written comments on the Supplemental ANOPR, and entertain comments on that document. The Department will also explain its plans for the remaining analysis (NOPR analysis) and seek comments and suggestions for improving its methodologies, assumptions, and data sources.

Preliminary Agenda

9:00 a.m. Opening Remarks and Introductions

ANOPR Analysis—Methodologies and Results

Engineering Analysis and Issues
Life Cycle Cost, National Energy Savings, Shipments Analysis and Issues

NOPR Analysis—Plans

Manufacturer Impact Analysis
Indirect Employment
Utility Impact Analysis
Environmental Assessment
Consumer Subgroup

Summary Discussion

5:00 p.m. Adjournment

Please note that this draft agenda is preliminary. The agenda items listed are guidelines and are subject to change. A final agenda will be available at the meeting on Thursday, December 9, 1999.

Transcript

We will make the transcript of this workshop available for public review and copying within 30 days at the U.S. Department of Energy, Freedom of Information Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–3142, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on November 8, 1999.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 99–29690 Filed 11–12–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–244–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Saab Model SAAB 2000 series airplanes. This proposal would require a one-time general visual inspection to verify the proper orientation of the aft exterior light; and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent improper illumination of the ground under the service door due to incorrect installation of the aft exterior light, which could result in injury to the passengers or crew members during an emergency evacuation.

DATES: Comments must be received by December 15, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–

244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal 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 99–NM–244–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on all Saab Model SAAB 2000 series airplanes. The LFV advises that service experience has shown that the aft exterior light may have been incorrectly installed on some airplanes during maintenance. Often the light beam is pointing forward instead of aft to a position under the service door. An incorrectly oriented aft exterior light will result in a degraded lighting level while the airplane is on the ground. This condition, if not corrected, could result in injury to the passengers or crew members during an emergency evacuation.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 2000–33–016, dated April 21, 1999, which describes procedures for a one-time general visual inspection to verify the proper orientation of the aft exterior light; and corrective actions, if necessary, to correct the orientation of the aft exterior light. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive No. 1–140, dated April 21, 1999, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 3 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $180, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed 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 proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Saab Aircraft AB: Docket 99–NM–244–AD.

Applicability: All Model SAAB 2000 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 improper illumination of the ground under the service door due to incorrect installation of the aft exterior light, which could result in injury to the passengers or crew members during an emergency evacuation, accomplish the following:

(a) Within 4 months after the effective date of this AD, perform a one-time general visual inspection of the aft exterior light to verify proper orientation, in accordance with Saab Service Bulletin 2000–33–016, dated April 21, 1999.

(1) If the aft exterior light is correctly installed, as specified in the service bulletin, reinstall the lens in accordance with the service bulletin.

(2) If the aft exterior light is incorrectly installed, as specified in the service bulletin, prior to further flight, correct the orientation of the aft exterior light in accordance with the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

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

Note 3: 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.

Special Flight Permits

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

Note 4: The subject of this AD is addressed in Swedish airworthiness directive No. 1–140, dated April 21, 1999.

Issued in Renton, Washington, on November 5, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–29744 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–220–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes. This proposal would require an eddy current inspection to detect cracks in the upper girder of the two main landing gear (MLG) brackets; and repair of a cracked bracket followed by repetitive inspections, or replacement of a cracked MLG bracket with an improved bracket, as applicable. This proposal also provides for optional terminating action for certain requirements of this proposed AD. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct cracks in the upper girder of the MLG bracket, which could progress into the vertical stiffeners of the MLG bracket and result in reduced structural integrity of the landing gear.

DATES: Comments must be received by December 15, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–220–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal 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 99–NM–220–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the

FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–220–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on certain Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 series airplanes. The RLD advises that cracks have been discovered in the upper girder of the main landing gear (MLG) bracket, between the stringer fitting bolts attaching the MLG bracket and fitting to the wing upper skin. Crack surface investigation has shown that the cracking occurred due to stress corrosion. The affected MLG brackets are made of 7079T6 aluminum, which is known to be sensitive to this type of cracking. Such cracking, if not corrected, could progress into the vertical stiffeners of the MLG bracket, and result in an insufficient load transfer from the MLG aft pintle pin into the auxiliary wing spar structure, and consequent reduced structural integrity of the landing gear.

Explanation of Relevant Service Information

Fokker has issued Service Bulletin F28/57–90, dated March 1, 1999, which contains procedures for an eddy current inspection to detect cracks in the upper girder of the two MLG brackets; and repair of a cracked bracket, with follow-on repetitive eddy current inspections, or replacement of a cracked bracket with an improved bracket, as applicable. The RLD classified Service Bulletin F28/57–90 as mandatory, and issued Dutch airworthiness directive 1999–045, dated March 31, 1999, in order to assure the continued airworthiness of these airplanes in the Netherlands.

Fokker has also issued Fokker Proforma Service Bulletin F28/57–92, dated July 1, 1999, which describes the procedures for replacement of the existing MLG bracket with an improved bracket. The improved bracket is made of 7175T7 aluminum, which is not as sensitive to stress corrosion cracking as the material of the existing bracket. The accomplishment instructions of the proforma service bulletin reference an appendix to the proforma service bulletin that will include specific instructions on accomplishing the replacement on a specific operator's fleet. Procedures for the replacement include measuring the position of the existing MLG bracket, removing the existing bracket and attachment fittings, checking alignment of the fastener holes, measuring gaps, installing a shim, aligning the new bracket, and installing the new bracket and attachment fittings.

Accomplishment of the actions specified in these service bulletins is intended to adequately address the identified unsafe condition.

FAA's Conclusions

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as noted below.

Operators should note that, in consonance with the findings of the RLD, the FAA has determined that, in certain cases, the repair and repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in certain cases, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect cracking before it represents a hazard to the airplane.

The proposed AD also would require that, regardless of the results of the inspections, operators report all inspection findings to the airplane manufacturer.

Differences Between Proposed Rule, Foreign Airworthiness Directive, and Service Bulletin

The proposed AD would differ from Fokker Service Bulletin F28/57–90 and the parallel Dutch airworthiness directive in that it would require, prior to further flight, replacement of a cracked MLG bracket with an improved bracket, if a crack exceeds 0.0591 inch (15 mm) in length. The service bulletin and the Dutch airworthiness directive specify replacement of a cracked MLG bracket prior to further flight only if a crack exceeds 1.576 inch (40 mm) in length. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject MLG bracket that is found to have a crack that exceeds 0.0591 (15 mm) in length must be replaced prior to further flight.

Operators should note that Fokker Service Bulletin F28/57–90 and the Dutch airworthiness directive specify to replace a cracked MLG bracket in accordance with Fokker Proforma Service Bulletin F28/57–92, or to contact the manufacturer for replacement instructions. However, this proposed AD would require replacement of a cracked MLG bracket to be accomplished in accordance with Fokker Proforma Service Bulletin F28/57–92.

Operators also should note that, although Fokker Proforma Service Bulletin F28/57–92, including any appendix referenced in that proforma service bulletin, may specify that the manufacturer may be contacted if any discrepancies are found during the replacement of the MLG bracket, this proposal would require correction of the discrepancies in accordance with a method approved by the FAA, or the RLD (or its delegated agent). In light of the type of corrective action that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, corrective action approved by either the FAA or the RLD would be acceptable for compliance with this proposed AD.

Cost Impact

The FAA estimates that 6 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $720, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed 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 proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Fokker Services B.V.: Docket 99–NM–220–AD.

Applicability: Model F.28 Mark 1000, 2000, 3000 and 4000 series airplanes; serial numbers 11003 through 11091 inclusive, 11094 through 11171 inclusive, 11991, and 11992; 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 (f) 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 cracks in the upper girder of the main landing gear (MLG) bracket, which could progress into the vertical stiffeners of the MLG bracket and result in reduced structural integrity of the landing gear, accomplish the following:

One-Time Inspection and Corrective Actions

(a) Within 12 months after the effective date of this AD, perform a one-time eddy current inspection of the upper girder of the MLG brackets on the left and right sides of the airplane for cracks, in accordance with the Accomplishment Instructions of Fokker Service Bulletin F28/57–90, dated March 1, 1999.

(1) If no cracks are found, no further action is required by this AD.

(2) Except as provided by paragraph (c) of this AD, if any crack is found, prior to further flight, repair as specified in paragraph C.(1) of the Accomplishment Instructions of the service bulletin, in accordance with the service bulletin. Thereafter, repeat the eddy current inspection at intervals not to exceed 1 year, until accomplishment of paragraph (d) of this AD.

Reporting Requirement

(b) Within 10 days after accomplishing each inspection required by paragraph (a) of this AD, submit a report of the inspection results to: Fokker Services B.V., Technical Services, Attn: Manager Airline Support, P.O. Box 231, 2150 AE Nieuw-Vennep, The Netherlands. 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.

Replacement

(c) For airplanes on which a crack greater than 0.591 inch (15 mm) in length is found: Except as provided by paragraph (e) of this AD, prior to further flight, replace the cracked MLG bracket with a new, improved bracket (including measuring the position of the existing MLG bracket, removing the existing bracket and attachment fittings, checking alignment of the fastener holes, measuring gaps, installing a shim, and aligning the new bracket); in accordance with Fokker Proforma Service Bulletin F28/57–92, dated July 1, 1999. Such replacement constitutes terminating action for the repetitive inspections required by paragraph (a)(2) of this AD.

Optional Terminating Action

(d) Except as provided by paragraph (e) of this AD, replacement of the MLG bracket with a new, improved bracket (including measuring the position of the existing MLG bracket, removing the existing bracket and attachment fittings, checking alignment of the fastener holes, measuring gaps, installing a shim, and aligning the new bracket), in accordance with Fokker Proforma Service Bulletin F28/57–92, dated July 1, 1999; constitutes terminating action for the repetitive inspections specified in paragraph (a)(2) of this AD for the replaced bracket.

(e) If any discrepancy is detected during accomplishment of the replacement procedures, and the service bulletin or any appendix to the service bulletin specifies to contact Fokker for appropriate action: Prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Rijksluchtvaartdienst (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(f) 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 International Branch, ANM–116.

Special Flight Permits

(g) 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.

Note 3: The subject of this AD is addressed in Dutch airworthiness directive 1999–045, dated March 31, 1999.

Issued in Renton, Washington, on November 5, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–29743 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–316–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 767 series airplanes. This proposal would require repetitive inspections to detect discrepancies of the wiring and surrounding Teflon sleeves of the fuel tank boost pumps and override/jettison pumps; replacement of the sleeves with new sleeves, for certain airplanes; and repair or replacement of the wiring and sleeves with new parts, as necessary. This proposal is prompted by reports of chafing of Teflon sleeves that surround and protect electrical wires inside conduits installed in the fuel tanks. The actions specified by the proposed AD are intended to ensure adequate protection to the fuel pump wire insulation. Such chafing of the wire insulation could eventually result in exposure of electrical conductor, permit arcing from the wire to the conduit, and create a potential for a fuel tank fire or explosion.

DATES: Comments must be received by December 30, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–316–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule 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.

FOR FURTHER INFORMATION CONTACT: Holly Thorson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1357; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal 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–NM–316–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–316–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Inspections of Boeing Model 747 series airplanes were performed in accordance with AD 96–26–06, amendment 39–9870 (62 FR 304, January 3, 1997), and AD 97–26–07, amendment 39–10250 (62 FR 65352, December 12, 1997), to detect damage of the sleeving and wire bundles of certain fuel tank boost pumps and auxiliary jettison pumps. The inspections revealed significant chafing through the Teflon sleeves that enclose wire bundles inside the conduits located in the fuel tanks.

As on Model 747 series airplanes, the Model 767 fuel pumps for the main fuel tanks and the center wing tank (auxiliary tank) are supplied electrical power by wiring encased in metal conduits inside the fuel tanks; a wire bundle is separated from its associated conduit by two concentric Teflon sleeves. Moreover, the vibration environments in the wing fuel tanks of Model 747 and 767 series airplanes are similar. Therefore, the wear rate of the Teflon sleeves surrounding the electrical wires could be similar for Model 747 and 767 series airplanes.

Because the unsafe condition identified in AD 96–26–06 and AD 97–26–07 for Model 747 series airplanes (the potential for fuel tank fire or explosion due to chafing) is also likely to occur on Model 767 series airplanes, procedures were developed (and are described below) for the inspection of fuel tank wire bundles and Teflon sleeves on Model 767 series airplanes. As part of the validation process for the development of the service bulletin for those procedures, the wire bundles and sleeves were inspected on several Model 767 series airplanes. The inspections revealed numerous cases of chafing through the outer Teflon sleeves and three cases of chafing through both Teflon sleeves. There were no reports of damage to the wire insulation or jacket. Several variations in the sleeve installations were reported, including one report of a missing outer sleeve and another report of sleeves too thin to meet required criteria. Numerous occurrences of spliced sleeve sections were noted; several of those spliced sections were separated, leaving 1- to 2-inch gaps in the sleeves and exposing the wires. All of the operators that conducted the preliminary inspections reported that lacing ties were installed at approximately 6-inch intervals around the outside of the sleeves. Lacing ties installed on the outside of the sleeves (except at the conduit ends) may contribute to the degradation of the sleeves. Damaged or spliced Teflon sleeves could result in chafing of the electrical wiring in the fuel tank conduits and thereby expose the electrical conductor. Exposure of the electrical conductor, if not corrected, could permit arcing from the wire to the conduit and create a potential for a fuel tank fire or explosion.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–28A0053, Revision 1, dated August 5, 1999, which describes procedures for repetitive visual inspections to detect damage of the Teflon sleeves surrounding fuel tank boost pump and override/jettison pump wiring; and a follow-on visual inspection to detect damage of the wiring and corrective actions, if necessary. The corrective actions include replacing discrepant Teflon sleeves (having splices, cuts, splits, holes, worn areas, or lacing ties installed on the outside of the sleeves) with new Teflon sleeves, replacing wiring that has been damaged due to arcing, and repairing or replacing wiring that has been damaged for reasons other than arcing. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

FAA's Findings

The FAA has determined that splicing the Teflon sleeves at any location along the length of the wire bundle is unacceptable because spliced sections may pull apart, leaving gaps in the sleeves and portions of the wires unprotected from chafing against the conduit. Additionally, the FAA has determined that lacing ties installed around the sleeves may contribute to the chafing of the sleeves. In light of these findings and the demonstrated need for protective Teflon sleeves between the wires and the conduits inside the fuel tanks, the FAA has concluded that an inspection of all Model 767 series airplanes is required to determine the integrity of the installed Teflon sleeves and wire bundles.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below. The proposed AD also would require that operators report positive inspection findings (findings of discrepancies only) to the FAA.

Differences Between Proposed AD and Relevant Service Information

Operators should note that, while Boeing Alert Service Bulletin 767–28A0053 limits its effectivity to Boeing Model 767 series airplanes having certain line numbers, this proposed AD would be applicable to all Model 767 series airplanes. The FAA has determined that all Model 767 series airplanes are subject to the unsafe condition.

Clarification of Service Bulletin Figure

The FAA finds it necessary to clarify the note inserted between steps 6 and 7 in Figure 2, Sheet 4, of the alert service bulletin. Where the alert service bulletin refers to ''damage'' as ''more than one piece of sleeve,'' this type of ''damage'' is intended to refer to splices in the protective Teflon sleeves. Splices are considered ''damage'' because they may become pulled apart, potentially exposing the underlying wires and leaving them unprotected from chafing against the conduit.

Cost Impact

There are approximately 716 airplanes of the affected design in the worldwide fleet. The FAA estimates that 253 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 5 work hours per airplane (for airplanes with jettison pumps) or 3 work hours per airplane (for airplanes without jettison pumps) to accomplish the proposed inspection/replacement, at an average labor rate of $60 per work hour. Parts, if required, would cost $336 for the sleeve replacement proposed by this AD.

Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $636 or $516 per airplane, if required to accomplish the replacement action; and $300 or $180 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed 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 proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Boeing: Docket 98–NM–316–AD.

Applicability: All Model 767 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 (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 exposure of the electrical conductor, which could permit arcing from the wire to the conduit and create a potential for a fuel tank fire or explosion, accomplish the following:

Inspection

1(a) Perform a detailed visual inspection to detect discrepancies—including the presence of splices, cuts, splits, holes, worn areas, and lacing ties installed on the outside of the sleeves (except at the sleeve ends) of the Teflon sleeves surrounding the wiring of the fuel tank boost pumps and override/jettison pumps, at the earlier of the times specified in paragraphs (a)(1) and (a)(2) of this AD, in accordance with Boeing Alert Service Bulletin 767–28A0053, Revision 1, dated August 5, 1999. Repeat the inspection thereafter at intervals not to exceed 60,000 flight hours or 30,000 flight cycles, whichever occurs first.

(1) Prior to the accumulation of 50,000 total flight hours, or within 90 days after the effective date of this AD, whichever occurs later.

(2) Within 18 months after the effective date of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Corrective Actions

(b) If any discrepancy is detected during any inspection required by paragraph (a) of this AD: Prior to further flight, remove the Teflon sleeves and perform a detailed visual inspection to detect damage of the wiring, in accordance with paragraph D. of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–28A0053, Revision 1, dated August 5, 1999.

(1) If no damage to the wiring is detected, prior to further flight, install new Teflon sleeves in accordance with the alert service bulletin.

(2) If any damage to the wiring is detected, prior to further flight, accomplish the requirements of paragraph (c) of this AD.

(c) If any damage to the wiring is detected during any inspection required by paragraph (b) of this AD: Prior to further flight, perform a detailed visual inspection to determine if the wiring damage was caused by arcing, in accordance with paragraph D. of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–28A0053, Revision 1, dated August 5, 1999.

(1) If the wire damage was not caused by arcing: Prior to further flight, repair any damaged wires or replace the wires with new or serviceable wires, as applicable, and install new Teflon sleeves; in accordance with the alert service bulletin.

(2) If any damage caused by arcing is found: Prior to further flight, perform an inspection for signs of fuel inside the conduit or on the wires, in accordance with the alert service bulletin.

(i) If no sign of fuel is found, accomplish the actions specified by paragraphs (c)(2)(i)(A), (c)(2)(i)(B), (c)(2)(i)(C), and (c)(2)(i)(D) of this AD.

(A) Prior to further flight, repair the wires or replace the wires with new or serviceable wires, as applicable, in accordance with the alert service bulletin.

(B) Prior to further flight, install new Teflon sleeves, in accordance with the alert service bulletin.

(C) Repeat the inspection for signs of fuel inside the conduit thereafter at intervals not to exceed 500 flight hours, until the requirements of paragraph (c)(2)(i)(D) have been accomplished. If any fuel is found inside the conduit during any inspection required by this paragraph, prior to further flight, replace the conduit with a new or serviceable conduit in accordance with the alert service bulletin. Thereafter, repeat the inspection specified in paragraph (a) at intervals not to exceed 60,000 flight hours or 30,000 flight cycles, whichever occurs first.

(D) Within 6,000 flight hours or 18 months after the initial fuel inspection specified by paragraph (c)(2) of this AD, whichever occurs first, replace the conduit with a new or serviceable conduit, in accordance with the alert service bulletin. Such conduit replacement constitutes terminating action for the repetitive fuel inspections required by paragraph (c)(2)(i)(C) of this AD.

(ii) If any fuel is found in the conduit or on any wire: Prior to further flight, replace the conduit with a new or serviceable conduit, replace damaged wires with new or serviceable wires, and install new Teflon sleeves; in accordance with the alert service bulletin. Thereafter, repeat the inspection specified in paragraph (a) at intervals not to exceed 60,000 flight hours or 30,000 flight cycles, whichever occurs first.

Pump Retest

(d) For any wire bundle removed and reinstalled during any inspection required by this AD: Prior to further flight after such reinstallation, retest the fuel pump in accordance with paragraph G., H., I., or J., as applicable, of the Accomplishment Instructions, of Boeing Alert Service Bulletin 767–28A0053, Revision 1, dated August 5, 1999.

Reporting Requirement

(e) Submit a report of positive inspection findings (findings of discrepancies only), along with any damaged wiring and sleeves, to the Seattle Manufacturing Inspection District Office (MIDO), 2500 East Valley Road, Suite C–2, Renton, Washington 98055–4056; fax (425) 227–1159; at the applicable time specified in paragraph (e)(1) or (e)(2) of this AD. The report must include the airplane serial number; the number of total flight hours and flight cycles on the airplane; the location of the electrical cable on the airplane; and a statement indicating whether any wire has ever been removed and inspected during maintenance, along with the date (if known) of any such inspection. 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.

(1) For airplanes on which the initial inspection required by paragraph (a) of this AD is accomplished after the effective date of this AD: Submit the report within 10 days after performing the initial inspection.

(2) For airplanes on which the initial inspection required by paragraph (a) of this AD has been accomplished prior to the effective date of this AD: Submit the report for the initial inspection within 10 days after the effective date of this AD.

Alternative Methods of Compliance

(f) 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(g) 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.

Issued in Renton, Washington, on November 5, 1999.

N. B. Martenson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–29742 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–126–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes. This proposal would require a measurement of the extension of the piston in the retract actuator of the main landing gear (MLG); and corrective action, if necessary. This proposal also would require repetitive replacement of the retract actuator with a repaired retract actuator, or repetitive replacement of the piston in the retract actuator with a new piston. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fatigue failure of the piston in the retract actuator of the MLG, and reduced structural integrity of the MLG.

DATES: Comments must be received by December 15, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–126–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal 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 99–NM–126–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–126–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. LFV advises that it has received a report of fatigue failure of a piston (ramrod) in the retract actuator of the main landing gear (MLG). The cause of this failure may be excessive loads as a result of the piston bottoming in the cylinder, which causes cracks to develop in the piston. This condition, if not corrected, could result in failure of a piston in the MLG and reduced structural integrity of the MLG.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 2000–A32–052, Revision 01, dated March 16, 1999, including Attachment 1, dated March 16, 1999, and Attachment 2, dated March 1999; which describes procedures for a measurement of the extension of the piston in the retract actuator of the MLG; and corrective action, if necessary. The corrective action involves replacing either the retract actuator with a repaired retract actuator, or the piston in the retract actuator with a new piston, if necessary. The service bulletin also describes procedures for repetitive replacement of these components. LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD No. 1–138, dated March 16, 1999, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Interim Action

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

Cost Impact

The FAA estimates that 3 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed measurement, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the measurement proposed by this AD on U.S. operators is estimated to be $180, or $60 per airplane.

It would take approximately 5 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be provided to the operators at no cost by the manufacturer. Based on these figures, the cost impact of the replacement proposed by this AD on the U.S. operators is estimated to be $900, or $300 per airplane, per replacement.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed 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 proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Saab Aircraft AB: Docket 99–NM–126–AD.

Applicability: Model SAAB 2000 series airplanes, serial numbers 004 through 063 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue failure of the piston in the retract actuator of the main landing gear (MLG) and reduced structural integrity of the MLG, accomplish the following:

Inspection

(a) Within 3 days after the effective date of this AD, perform a measurement of the extension of the piston (ramrod) in the retract actuator of the MLG in accordance with Saab Service Bulletin 2000–A32–052, Revision 01, dated March 16, 1999, including Attachment 1, dated March 16, 1999, and Attachment 2, dated March 1999. If the extension of the piston is less than 0.59 inches (15 millimeters), prior to further flight, perform the action required by either paragraph (b)(1) or (b)(2) of this AD.

Replacement

(b) Prior to the accumulation of 5,000 total flight cycles, or within 2 months after the effective date of this AD, whichever occurs later, accomplish the requirement specified in either paragraph (b)(1) or (b)(2) of this AD in accordance with Saab Service Bulletin 2000–A32–052, Revision 01, dated March 16, 1999, including Attachment 1, dated March 16, 1999, and Attachment 2, dated March 1999. Thereafter, repeat the action required by either paragraph (b)(1) or (b)(2) of this AD at intervals not to exceed 5,000 flight cycles.

(1) Replace the retract actuator with a repaired retract actuator.

(2) Replace the piston in the retract actuator with a new piston.

Spares

(c) As of the effective date of this AD, no person shall install on any airplane, a retract actuator, part number (P/N) AIR86482–1 through AIR86482–4 inclusive, unless it has been repaired in accordance with Saab Service Bulletin 2000–A32–052, Revision 01, dated March 16, 1999, including Attachment 1, dated March 16, 1999, and Attachment 2, dated March 1999.

Alternative Methods of Compliance

(d) 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 International Branch, ANM–116.

Special Flight Permits

(e) 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.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD No 1–138, dated March 16, 1999.

Issued in Renton, Washington, on November 8, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–29741 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AWA–12]

RIN 2120–AA66

Proposed Revision to the Legal Description of the Burlington International Class C Airspace Area; VT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to revise the legal description of the Burlington, VT, Class C airspace area by changing the operating hours to be consistent with the current operational requirements. Specifically, the Class C airspace area, as proposed, would be designated effective during the specific days and hours of operation of the Burlington Tower and Approach Control facility as established in advance by a Notice to Airmen (NOTAM). The effective dates and times would thereafter be continuously published in the Airport/Facility Directory. This proposed action would not change the actual dimensions, configuration, or operating requirements of the Burlington Class C airspace area.

DATES: Comments must be received on or before December 27, 1999.

ADDRESSES: Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–200, Airspace Docket No. 99–AWA–12, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following Internet address: nprmcmts@mail.hq.faa.gov. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AWA–12.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be

considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661), using a modem and suitable communications software.

Internet users may reach the FAA's web page at http://www.faa.gov or the **Federal Register**'s web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, Attention: Airspace and Rules Division, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3075. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the Federal Aviation Administration, Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

The Burlington Airport Traffic Control Tower is reducing its hours of operation. The Burlington Class C airspace area remains an essential safety measure in support of the ongoing airport operation requirements.

The Proposal

The FAA proposes to amend 14 CFR part 71 by revising the legal description of the Burlington Class C airspace area located at Burlington, VT. The FAA proposes to use the operating hours for the Class C airspace area which are consistent with the current requirements. It is proposed that the Class C airspace area would be designated effective during the specific days and hours of operation of the Burlington facility as established in advance by NOTAM. The proposed action is a technical amendment to the legal description and would not change the actual dimensions, configuration, or operating requirements of the Burlington Class C airspace area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed 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) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The coordinates for this airspace docket are based on North American Datum 83. Class C airspace designations are published in paragraph 4000 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class C airspace designation listed in this document would be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 4000—Subpart C—Class C Airspace

* * * * *

Burlington International Airport, VT [Revised]

Burlington International Airport, VT

(Lat. 44°28′17″ N., long. 73°09′10″ W.)

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the Burlington International Airport, and that airspace extending upward from 2,200 feet MSL to 4,400 feet MSL within a 10-mile radius of Burlington International Airport from the 360° bearing from the airport clockwise to the 180° bearing from the airport, excluding the airspace within Restricted Area R–6501; and that airspace extending upward from 1,500 feet MSL to 4,400 feet MSL within a 10-mile radius of the airport from the 180° bearing from the airport clockwise to the 360° bearing from the airport. This Class C airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Washington, DC, on November 4, 1999.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 99–29682 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ANM–11]

Proposed Establishment of Class D Airspace; Jackson, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This proposal would establish the Jackson, WY, Class D surface area airspace to accommodate the procedures associated with the operation of a new Airport Traffic Control Tower (ATCT) under construction at Jackson Hole Airport, Jackson, WY.

DATES: Comments must be received on or before December 30, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 99–ANM–11, 1601 Lind Avenue SW, Renton, Washington 98055–4056.

The official docket may be examined in the office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 99–ANM–11, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit, with those comments, a self-addressed stamped postcard on which the following statement is made: ''Comments to Airspace Docket No 99–ANM–11.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington 98055–4056. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2a, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by establishing Class D airspace at Jackson, WY. This amendment would provide Class D airspace to be used with the establishment of a new ATCT at Jackson Hole Airport. The FAA establishes Class D airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under Instrument Flight Rules (IFR) and Visual Flight Rules (VFR) at Jackson Hole Airport and between the terminal and en route transition states.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class D surface airspace areas are published in Paragraph 5000, of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 General

* * * * *

ANM MT D Jackson, WY [New]

Jackson Hole Airport, WY
(Lat. 43°36′24″ N, long. 110°44′17″ W)

That airspace extending upwards from the surface to and including 8,900 feet MSL within a 4.3-mile radius of the Jackson Hole Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on October 26, 1999.

Daniel A. Boyle,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 99–29680 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–116–FOR]

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on a proposed amendment to the Virginia regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of the following: a statutory change to the Virginia Act at

section 45.1–235 C as enacted in the 1999 session of the Virginia General Assembly; proposed regulation changes at section 4 VAC 25–130–700.5 to the definitions of ''government financed construction'' and ''qualified laboratory;'' and proposed regulation changes to section 4 VAC 25–130 Part 795 concerning the small operator assistance program (SOAP). The comment period is being reopened to provide opportunity to comment on two changes to 4 VAC 25–130–795.11(b) concerning SOAP funding. The amendment is intended to revise the Virginia program to be consistent with the corresponding Federal provisions.

DATES: Your written comments must be received by 4 p.m., on November 30, 1999.

ADDRESSES: Your written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the first address listed below.

Copies of the Virginia program, the proposed amendment, a listing of any scheduled public hearings, and all written comments that we receive in response to this document will be available for your review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each person may receive one free copy of the proposed amendment by contacting OSM's Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303

Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (703) 523–8100

FOR FURTHER INFORMATION CONTACT: Mr. Robert A Penn, Director, Big Stone Gap Field Office, Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. You can find background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the December 15, 1981, **Federal Register** (46 FR 61085–61115). You can find later actions concerning the conditions of approval and program amendments at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Discussion of the Proposed Amendment

By letter dated August 2, 1999 (Administrative Record No. VA–978), the Virginia Department of Mines, Minerals and Energy (DMME) submitted an amendment to the Virginia program. This amendment is the State's response to changes made to the Federal SOAP regulations at 30 CFR Part 795, and to the Federal definition of ''government-financed construction'' at 30 CFR 707.5.

We announced receipt of the proposed amendment in the August 20, 1999, **Federal Register** (64 FR 45489), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on September 20, 1999. No one requested to speak at a public hearing, so no hearing was held.

By letters dated October 1, 1999 (Administrative Record Number VA–987), and October 28, 1999 (Administrative Record Number VA–993) the DMME submitted amendments to 4 VAC 25–130–795.11(b). We are reopening the comment period to provide opportunity to comment on the two new changes which are described below. 4 VAC 25–130–795.11(b) Assistance Funding.

This provision is amended by deleting the words ''is authorized to'' and replacing those words with the word ''shall.'' As amended, this provision states that the Division shall establish a formula for allocating funds to provide services for eligible small operators if available funds are less than those required to provide the services pursuant to this part.

In addition, the DMME submitted its formula for allocating limited funds. The DMME stated that, should available funds ever be insufficient to provide all requested and appropriate assistance to eligible small operators, the DMME will provide services on a first come, first serve basis. The funds will be used in order of the application dates for the requested assistance.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), we are now seeking your comments on whether the amendments discussed above satisfy the applicable program approval criteria of 30 CFR 732.15. If we determine that the amendments are adequate, they will become part of the Virginia program.

Written Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking [or administrative] record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking [or administrative] record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. If your comments are received after the time indicated under **DATES** or at locations other than the Big Stone Gap Field Office, we will not necessarily consider them in the final rulemaking or include them in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 3, 1999.

Vann Weaver,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 99–29715 Filed 11–12–99; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS–400140C; FRL–6394–1]

RIN 2070–AD38

Lead and Lead Compounds; Lowering of Reporting Thresholds; Community Right-to-Know Toxic Chemical Release Reporting; Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; public meetings.

SUMMARY: EPA will hold public meetings to obtain comment on issues relating to the Agency's August 3, 1999 proposed rule to lower the reporting thresholds for lead and lead compounds which are subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). Currently, the EPCRA section 313 reporting thresholds for lead and lead compounds are 25,000 pounds manufactured or processed, or 10,000 pounds otherwise used. The August 3, 1999 proposed action would lower the threshold for each category to 10 pounds. EPA expects that the proposed action will significantly increase the number of reports submitted for lead and lead compounds, as well as result in a number of Toxic Release Inventory (TRI) facilities filing reports for the first time under EPCRA section 313 and section 6607 of PPA.

DATES: The first meeting will take place in Los Angeles, CA on November 30, 1999, from 9 a.m. to 3 p.m. The second meeting will take place in Chicago, IL on December 2, 1999, from 9 a.m. to 3 p.m. The third meeting will take place in Washington, DC on December 14, 1999, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting in Los Angeles, CA will be held at the Junipero Serra State Building at 107 South Broadway in the auditorium, Room 1138 (1st and Broadway). The meeting in Chicago, IL will be held at the Environmental Protection Agency, the Lake Michigan Room (12th Floor), 77 West Jackson Boulevard. The meeting in Washington, DC will be held at the Environmental Protection Agency, Auditorium, Education Center, 401 M St., SW.

FOR FURTHER INFORMATION CONTACT: To sign up to speak at the meeting or for general information on section 313 of EPCRA, contact the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 1–800–553–7672.

For technical information on the EPCRA section 313/PPA section 6607 lead and lead compounds proposed rulemaking contact: Daniel R. Bushman, Environmental Protection Agency, Mail Code 7408, 401 M St., SW., Washington, DC 20460; telephone number 202–260–3882, e-mail address: bushman.daniel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Public Meeting Announcement Apply to Me?

This announcement is directed to the public in general. It may, however, be of particular interest to facilities that manufacture, process, or otherwise use lead or lead compounds. Specific industry groups that may want to attend may include, but are not limited to: (1) Facilities in electronic components and accessories (SIC code 367), including printed circuit boards (SIC code 3672) that use lead-based solder, flux, cable coverings, piezoelectric ceramics or conduct other activities associated with lead and/or lead compounds; (2) facilities in motor vehicle and motor vehicle equipment (SIC code 371) that use bearing metals, casting metals, terne metals, solder, brake linings or conduct other activities associated with lead and/or lead compounds; (3) facilities in plating and polishing (SIC code 3471) that use zinc anodes or conduct other activities associated with lead and/or lead compounds; (4) facilities in printing and publishing (SIC code 27), including commercial printing (SIC code 275) that use inks containing lead in their pigment base or conduct other activities associated with lead and/or lead compounds; and (5) facilities in manufacturing industries (SIC codes 20–39) that combust coal, oil, or wood.

Other entities or individuals may also be interested in attending. The Agency has not, therefore, attempted to describe all the specific entities that may be interested in attending these public meetings. If you have any questions about the public meetings, please consult the technical person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://

www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

You may access the proposed rule and other information about the TRI program from the TRI Home Page at http://www.epa.gov/tri/. An electronic version of the economic analysis of the potential impact of the proposed rule, which is contained in a document entitled ''Economic Analysis of the Proposed Rule to Modify Reporting of Lead and Lead Compounds under EPCRA Section 313,'' is also available on the Internet at http://www.epa.gov/opptintr/economics/new.htm/.

2. *In person*. The Agency has established an official record for the related proposed rulemaking under docket control number OPPTS–400140. The official record consists of the documents specifically referenced in the proposed rule, any public comments received during the comment period, and other information related to the proposed rule, including any support documents and information claimed as Confidential Business Information (CBI). The official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the offical record, which includes printed, paper versions of any electronic comments that may be submitted during the comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

II. Background Information

Lead and lead compounds are toxic chemicals that persist and bioaccumulate in the environment. As the TRI program has evolved over time and as communities identify areas of special concern, EPA has recognized the need to modify thresholds and other aspects of the EPCRA section 313 reporting requirements to assure the collection and dissemination of relevant, topical information and data. Towards that end, EPA is proposing to increase the utility of the TRI to the public by lowering the reporting thresholds for lead and lead compounds. Lead and lead compounds, being persistent bioaccumulative toxic (PBT) chemicals, are of particular concern because they remain in the environment for significant periods of time and concentrate in the organisms exposed to them. EPA believes it is important that the public understand that these PBT chemicals can have serious human health and environmental effects resulting from low levels of release and exposure. Lowering the reporting thresholds for lead and lead compounds would ensure that the public has important information on the quantities of these PBT chemicals released or otherwise managed as waste, that would not be reported under the current thresholds.

EPA issued a proposed rule on August 3, 1999 (64 FR 42222) (FRL–6081–4) to lower the reporting thresholds for lead and lead compounds which are subject to reporting under section 313 of EPCRA and section 6607 of PPA. The proposed rule also included a limitation on the reporting of lead when contained in certain alloys and proposed modifications to certain reporting exemptions and requirements for lead and lead compounds. The comment period for the proposed rule was initially scheduled to close on September 17, 1999. On September 21, 1999, EPA issued a document (64 FR 51091) (FRL–6382–9) extending the comment period 45 days until November 1, 1999. On October 29, 1999, EPA issued a document (64 FR 58370) (FRL–6391–6) extending the comment period an additional 45 days until December 16, 1999.

On January 5, 1999 (64 FR 688) (FRL–6032–3), EPA proposed: (1) To lower the reporting thresholds for certain PBT chemicals that are subject to EPCRA section 313 and PPA section 6607; (2) to lower the reporting thresholds for dioxin and dioxin-like compounds, which were previously proposed for addition to the EPCRA section 313 list of toxic chemicals; and (3) to add certain PBT chemicals to the EPCRA section 313 list of toxic chemicals. On October 29, 1999, EPA finalized this rule (64 FR 58666) (FRL–6389–11) and it will take effect on December 31, 1999. For purposes of EPCRA section 313(d)(4), the chemical additions shall be considered made as of November 30, 1999, and shall apply for the reporting year beginning January 1, 2000. These PBT chemicals are of particular concern not only because they are toxic but because they remain in the environment for long periods of time, are not readily destroyed, and accumulate in body tissue. Relatively small releases of PBT chemicals can pose human and environmental health threats and consequently releases of these chemicals warrant recognition by communities.

III. Agency Request for Comments

A. General Comments Requested

These meetings are intended to provide an additional opportunity for public comment on all aspects of the August 3, 1999 proposed rule to lower the EPCRA section 313 reporting thresholds for lead and lead compounds, as well as on the issues recently raised concerning the potential small business impacts of the proposed rule and the Agency's small entity impact analysis. As described in the August 3, 1999 proposed rule, EPA is specifically soliciting comments on how the proposed rule would affect EPCRA section 313 reporting on lead and lead compounds, the impacts these proposed changes would have on the burden of section 313 reporting for lead and lead compounds, and the benefits such reporting would provide the public.

The Agency is particularly interested in receiving comments on the general policy issues, as they apply to lead and lead compounds, that were discussed and raised for comment in Unit IX. of the preamble to the PBT proposed rule (see 64 FR 688, at 717). It is important for EPA to clarify that the August 3, 1999 proposal does not introduce any new issues beyond those associated with lead and lead compounds (e.g., persistence data for lead, bioaccumulation data for lead, estimated number of reports for lead). The Agency is therefore only seeking comments on the generic issues that relate specifically to the proposal to lower the reporting threshold for lead and lead compounds.

The changes that EPA is proposing to make to the reporting requirements for lead and lead compounds are discussed in detail in Unit VI. of the August 3, 1999 proposed rule, including the applicability to lead and lead compounds of the general amendments to EPCRA section 313 reporting requirements for PBT chemicals presented in the January 5, 1999 proposed PBT rule. Accordingly, comments on the following issues, which were previously identified and for which comment was sought in Unit IX. of the preamble to the proposed PBT rule (see 64 FR 688, at 717), are only requested on this proposal insofar as the comments relate particularly to lead and lead compounds: (1) Whether EPA should attempt to estimate the releases that would be reported at an ''average'' facility at each of the identified options for a lowered threshold, the appropriate methodology for estimating releases

from all affected industry sectors, and whether EPA should then use those estimates to select the lowered threshold that would capture some overall percentage of releases, e.g., 75 - 80%; (2) whether EPA should consider lowering the reporting thresholds for lead and lead compounds based on either persistence or bioaccumulation (rather than both); (3) whether EPA should consider other mechanisms for further minimizing the potential impacts associated with lowering the reporting thresholds for lead and lead compounds (i.e., it was suggested that EPA develop a modified Form A with thresholds more appropriate for lead and lead compounds, retain *de minimis* thresholds for lead and lead compounds (perhaps at a lower level)), retain whole number reporting, the half-pound rule, and range reporting for lead and lead compounds, establish an activity qualifier restricting the lower reporting threshold to the manufacture of lead and lead compounds, retaining the higher current thresholds with respect to import, process or use activities, and that EPA modulate the frequency of reporting.

B. Comments Requested Specifically on Small Business Impacts

The Agency is specifically interested in information concerning the potential small business impacts of the proposed rule. In particular, concerns have been raised recently regarding the Agency's outreach to small businesses potentially impacted by the proposed rule, and the Agency's analysis of the potential impacts on small businesses. It has been suggested, for example, that the methodologies used by the Agency in its analysis did not adequately identify all of the types of small businesses that could be potentially affected by the proposed rule, and that the Agency has not, therefore, properly estimated the potential impacts on small businesses.

The Agency's small entity analysis is contained in a document entitled ''Economic Analysis of the Proposed Rule to Modify Reporting of Lead and Lead Compounds under EPCRA Section 313,'' which is available in the public version of the official record for the proposed rule and available electronically as described in Unit I.B.

As described in the Economic Analysis, EPA conducted a screening analysis of the potential impact of the proposed rule on small entities before making its determination that the proposal would not have a significant economic impact on a substantial number of small entities. Since EPA does not know the specific identity of every affected firm prior to reporting, EPA modeled the characteristics of potentially affected firms. For the manufacturing industries (SIC codes 20–39), EPA developed separate revenue profiles based on ''small'' and ''large'' current TRI reporters. Firms were classified based on Small Business Administration size standard definitions. Within these two categories (i.e., small and large firms), EPA further categorized the small and large firms by looking at the firms with ''low,'' ''medium,'' and ''high'' revenues. For example, among small firms, EPA calculated the potential impact percentages for small firms with revenues at the 25th percent quartile, the 50th percent quartile, and the 75th percent quartile. These revenue quartiles represent small firms with low, medium, and high revenues.

Based on current ''small'' TRI reporting firms, EPA used a revenue value of $4 million for the small manufacturing firm with ''low'' revenues (i.e., the 25th percent quartile). EPA's estimate of the average cost of filing a single TRI report on lead and lead compounds at a facility ranges from approximately $3,600 to $7,700 depending on the circumstances of the reporting facility. Therefore, the Agency's analysis indicates that a firm would not be expected to have an impact of greater than 1% of revenues in the first reporting year unless it had revenues of less than $770,000 per affected facility. In subsequent reporting years, the firm would have to have revenues of less than $360,000 per affected facility. Facilities that report to TRI must have at least 10 full-time employees.

EPA developed revenue profiles for small and large firms with low, medium, and high revenues within the manufacturing industries (SIC codes 20–39). EPA did not develop separate revenue profiles for small and large firms within each 4-digit SIC code. This approach was chosen to avoid double-counting expected reporting from facilities that both burn fuel and make other use of lead and lead compounds. Not all of the data that EPA identified is disaggregated to the 4-digit SIC code level. Therefore, EPA adjusted for double-counting at the manufacturing level. EPA also developed separate revenue profiles for small and large firms in other potentially affected industry groups, such as coal mining, electric utilities, and petroleum bulk terminals.

EPA is particularly interested in comments on the assumptions and methodologies used by the Agency in its analysis, including the following: The Agency's evaluation of the potential impacts on small businesses within the aggregated manufacturing sectors (SIC codes 20–39) using revenue profiles that reflect the characteristics of typical small and large firms that currently report to TRI; the Agency's segmentation of potentially impacted small business into three main revenue levels for analytical purposes, and whether the smallest level (i.e., 25% quartile at $4 million) is an appropriate revenue level for considering the potential impacts on the smallest of the small businesses that will be affected by the proposal; and whether the Agency's estimates of the average time to comply with the proposed rule should vary depending upon the size of the facility or firm, i.e., is the average cost or hourly burden of filing a single report greater for small businesses than for large businesses.

EPA is particularly interested in receiving information and/or detailed suggestions for improving EPA's methods of estimating the economic impact of the proposed rule on small entities and the number of small entities that may experience a significant economic impact. For example, EPA is interested in any available information relating to the following: (1) Categories of facilities not identified in the economic analysis that may be affected by the proposal; (2) the specific activities or processes associated with lead or lead compound manufacture, process, or otherwise use in the category; (3) the number of facilities with 10 or more full-time employees in the category that would be affected, in particular those facilities with annual revenues of less than $770,000; (4) the estimated quantity of lead and lead compounds manufactured, processed, or otherwise used by facilities in the category; (5) the estimated quantity of lead and lead compounds released or otherwise managed as waste by facilities in the category; (6) possible firm-level revenues and/or profits for facilities in the category that would assist EPA in evaluating the financial resources available to comply with the proposed rule; and (7) any additional recommendations for reducing reporting burden associated with the proposed rule that provided communities with information about the release and waste management of PBT chemicals within their community, especially any such suggestions that specifically address the burdens on small businesses.

C. Comments and Suggestions for Minimizing TRI Reporting Burdens

EPA believes that the additional information provided by lowering the TRI reporting thresholds for PBT

chemicals, including lead and lead compounds, will be valuable to communities and will significantly enhance their knowledge about toxic chemical releases and other waste management activities that may be of concern to them. At the same time, EPA recognizes that the August 3, 1999 proposal, along with the rule lowering reporting thresholds for various other PBT chemicals (64 FR 58666), will increase the total burden imposed by the TRI program on facilities that must provide the information. EPA has therefore initiated a number of burden reducing activities in the TRI program to help minimize reporting burden, while continuing to provide communities with high quality right-to-know information to meet the goals and objectives of EPCRA section 313. For example, EPA is developing reporting guidance, including guidance specifically for small businesses, which will simplify and ease reporting burdens. These efforts include the development of intelligent reporting software with built-in error checking routines and calculation methodologies; the development of a single facility identification program for facilities that report to EPA; and the development of guidance to facilitate more consistent use of chemical nomenclature, reporting units, and time frames across different programs.

As a means of identifying other potential areas for reducing TRI reporting burden, EPA initiated an intensive stakeholder process to comprehensively evaluate current TRI reporting. An important part of this stakeholder process was a review conducted by the Toxics Data Reporting (TDR) Committee of the National Advisory Council on Environmental Policy and Technology (NACEPT). The TDR Committee report is available on the Internet at www.epa.gov/tri, and is also discussed in the proposed rule (see 64 FR 42222, at 42224). Although the TDR Committee did not reach final consensus on most issues, the TDR Committee presented various ideas for burden reduction, including the creation of an intelligent software program for reporters, the integration of reporting across programs, the provision of industry-specific guidance, the expansion of the EPCRA section 313 exemptions, and options for increasing eligibility for the alternate threshold as certified by Form A.

In addition to the TDR Committee report, EPA has received other suggestions for burden reduction in the TRI program. Although EPA has already requested comment on the suggestion that EPA effectively modify the frequency of reporting for PBT chemicals (see 64 FR 688, at 718), and lead and lead compounds (Unit III.C. of the proposed rule), it has been suggested that EPA consider changing the frequency of reporting under EPCRA section 313 in general, i.e., require biennial reporting. EPA is requesting comment on the utility of biennial reporting and whether that approach would provide for significant burden reduction for affected facilities. EPA welcomes comment on the availability of information that would allow the Agency to make the requisite findings under EPCRA section 313(i)(3)(B), especially how consideration of alternate reporting requirements should pertain to the facilities in the recently added industry sectors for which first reports have just recently been received, the lack of readily available information on EPCRA section 313 chemicals from existing sources, and what available information may exist to allow EPA to address the requirements of the law.

EPA places great importance on reducing burden on the public and is currently considering the various suggestions it has received, including the ideas in the TDR Committee report, and others received from industry and other agencies. EPA welcomes additional suggestions, and specifically requests comment on the ideas presented in the TDR Committee report, particularly those that relate to burden reduction.

List of Subjects in 40 CFR Part 372

Environmental protection, Chemicals, Community right-to-know, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements, Superfund.

Dated: November 9, 1999.

Susan H. Wayland,

Deputy Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–29716 Filed 11–12–99; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1300

RIN: 1004–AC73

[WO–420–1430–00–24 1A]

Definitions

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: This publication withdraws a proposed rule that would have created a central glossary of definitions of terms used throughout the regulations of the Bureau of Land Management.

DATES: November 15, 1999.

ADDRESSES: Send suggestions and inquiries to Director (630), Bureau of Land Management, Room 401 LS, 1849 C Street, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Ted Hudson at (202) 452–5042.

SUPPLEMENTARY INFORMATION: A rule proposing to create a central glossary of definitions, and proposing conforming amendments, was published in the **Federal Register** on November 19, 1996 (61 FR 58843). This proposed rule is withdrawn. The Department of the Interior plans no further action on this rule.

Dated: November 5, 1999.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

[FR Doc. 99–29718 Filed 11–12–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 99–3881]

RIN No. 2127–AH21

Federal Motor Vehicle Safety Standards; Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Withdrawal of rulemaking.

SUMMARY: This document withdraws the rulemaking in which NHTSA was considering whether to propose to amend its safety standard for transmission shift lever sequence. This rulemaking was in response to a petition received from BMW of North America, Inc. (BMW). BMW has been exploring the possibility of producing vehicles with electronically-controlled transmissions that do not use the conventional shift lever, but instead could employ shift mechanisms such as a rotary switch, keypad, touch screen, joystick, voice activation, or some other method. The joystick and other systems which employ lever-like designs, however, may not comply with requirements for the transmission shift lever sequence.

NHTSA is willing to consider the possibility of modifying the present standardized shift lever sequence of Park, Reverse, Neutral, Drive, Low, or ''PRNDL,'' if the standardized approach were shown to be a needless impediment to new technology. However, BMW has informed the agency that its anticipated joystick design complies with the existing standardized shift lever sequence. Therefore, there is currently no demonstrated need for the agency to modify its standardized approach to allow the introduction of new technology. For this reason, the rulemaking action in this aea is withdrawn.

FOR FURTHER INFORMATION CONTACT: *For technical issues:* Mr. Chris Flanigan, Office of Safety Performance Standards, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Flanigan's telephone number is (202) 366–4918 and his facsimile number is (202) 366–4329.

For legal issues: Ms. Dorothy Nakama, Rulemaking Division, Office of Chief Counsel, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Nakama's telephone number is (202) 366–2992 and his facsimile number is (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

Standard No. 102's purpose is to reduce deaths and injuries resulting from misshifting. Since 1968, the standard has ensured against misshifting by specifying the transmission shift lever sequence for automatic transmissions. Pargaraph S3.1.1 of the standard, ''Location of transmission shift lever positions on passenger cars,'' requires that:

> A neutral position shall be located between forward drive and reverse drive positions. If a steering-column-mounted transmission shift lever is used, movement from neutral position to forward drive position shall be clockwise. If the transmission shift lever sequence includes a park position, it shall be located at the end, adjacent to the reverse drive position.

Under these requirements, the driver must move the shift lever serially to get from one position to another. For instance, if a vehicle is in park, to get to drive, the driver must move the shift lever serially through two positions: reverse, neutral, and then to drive. Moreover, with the neutral position required to be between reverse and drive, this further ensures that no mistakes in selection will be made. The neutral position provides a buffer zone between forward and reverse. Therefore, if there was a mistake in moving the shift lever, it is more than likely that the vehicle would end up in neutral instead of drive or reverse.

The main type of misshifting the standard seeks to prevent is when a driver initiates forward or rearward motion from a standstill. For example, if a driver intends to leave a parking space by placing a vehicle in reverse and accidentally places the vehicle in drive, there is a potential for pedestrians or other vehicles to be struck. The required shift lever sequence minimizes this safety risk by specifying that a driver must always follow a standardized sequence to get to the desired gear.

II. BMW's Petition

BMW petitioned the agency to amend Standard No. 102 on November 19, 1997. As stated above, it is considering manufacturing electronically-controlled transmissions that would not use the conventional mechanical shift lever as current vehicles with both electronically-controlled and mechanically-controlled transmissions. The systems could use unconventional methods of initiating shift changes (rotary switches, keypads, touch screens, joysticks, voice activation, or other methods). For a mechanically-controlled transmission, a shift lever is moved, which activates a linkage or cable that positions the transmission's linkage in the desired gear. When the shift mechanism on an electronically controlled system is moved, it sends an electric signal to a control on the transmission to place the transmission in the desired gear.

Standard No. 102 establishes four primary requirements for vehicles with automatic transmissions. First, it specifies a shift lever sequence for automatic transmissions and requires a neutral position to be located between forward drive and reverse drive positions. Second, it requires a transmission braking effect for vehicles having more than one forward transmission gear ratio. Third, it requires that the engine starter be inoperative when the transmission is in a forward or reverse drive position. Fourth, it requires that identification of shift lever positions shall be displayed in view of the driver.

BMW stated in its petition that the requirements to provide a transmission braking effect and a starter interlock when the transmission is in a forward or reverse drive position do not pose any problems for their newer design. Thus, the focus of BMW's petition and the request for comments was on the first and fourth requirements identified above—the shift lever sequence for automatic transmissions and the requirement that the shift lever sequence be displayed in view of the driver.

With respect to the shift lever sequence, BMW indicated that future shifting designs, especially joysticks, could move along two axes, instead of the single axis associated with conventional shift levers. That is, instead of moving around the steering column or forward and backward like conventional shift levers, joysticks and keypads shift by moving forward and backward and left and right. Adding this second axis of movement would make compliance with the shift lever sequence requirement and the requirement to display the shift lever sequence, in the words of BMW's petition, ''inappropriate, impracticable, and sometimes impossible.''

BMW also believes that because the shift lever sequence requirements refer to shift ''levers,'' Standard No. 102 would not apply to shifting mechanisms that do not employ a mechanical lever. It asserts that the standard was based on mechanical shift levers and its requirements were written to endorse the then-current industry practice of using a shift lever even though other means of gear selection (e.g., push buttons) had existed in the past and could possibly be reintroduced in the future. It states that, ''to avoid 'out-lawing' such other designs, the wording in these requirements was intentionally chosen to clearly apply only to transmissions with *mechanical shift levers.*''

BMW asked that three requirements be added to Standard No. 102 that relate to systems without mechanical transmission levers. Its suggested regulatory text is as follows:

S3.1.5 Systems without mechanical transmission levers.

S3.1.5.1 The engine starter shall be inoperative whenever a forward or reverse drive gear is engaged.

S3.1.5.2 Each transmission gear available for selection, how each available transmission gear can be selected, and which gear has been selected shall be displayed in view of the driver whenever any of the following conditions exist:

(a) The ignition is in a position where the transmission can be shifted.

(b) The transmission is not in park.

S3.1.5.3 Each system shall prohibit the following:

(a) shifting from drive to reverse and from reverse to drive at any speed above five kilometers per hour (km/h) (3.1 miles per hour (mph)).

(b) shifting into park from any gear at any speed above three km/h (1.9 mph).

III. Request for Comments

On June 4, 1998 (63 FR 30449), in response to BMW's petition, NHTSA published a request for comments which posed the following questions to determine the merits of allowing transmission shift mechanisms which change the transmission's gears in a non-serial manner.

1. Should Standard No. 102 be amended to permit transmission shift mechanisms which allow changing gears in a non-serial manner, e.g., keypads, touch screens, push buttons, voice activation, etc.? If these non-serial shift mechanisms were allowed, what types of restrictions, if any, should be placed on them to reduce the likelihood of misshifting? Please be specific.

2. Should the standard specify maximum speeds at which the transmission can be shifted, presuming that additional safety concerns exist that could be resolved by preventing shifting while a vehicle is in motion? If so, are the maximum speeds and the vehicle conditions that BMW has suggested in its petition appropriate? If not, what speeds and conditions would be appropriate?

3. Should there be a requirement that the brake pedal be depressed, or any other action, to achieve a failsafe condition to occur in order to initiate a change in gears (except when switching between drive and lower forward gears)?

4. If non-serial shift mechanisms were allowed, how should the display requirements be altered to accommodate them?

5. Although BMW did not raise any issues regarding transmission braking effect, the agency would like to get comments on this requirement. The standard states that ''[i]n vehicles having more than one forward transmission gear ratio, one forward drive position shall provide a greater degree of engine braking than the highest speed transmission ratio at vehicle speeds below 40 kilometers per hour.'' The only way the standard permits this requirement to be met is through the transmission braking effect. Should the requirement be less specific by allowing other means of slowing down the vehicle when the transmission is shifted into a lower forward gear? This could be accomplished when downshifting the transmission by controlling the vehicle's brake system via a traction control system, using a drive line retarder, using regenerative braking, or some other method.

IV. Comments and Agency Response

After reviewing the information submitted by BMW and the comments submitted to the notice, NHTSA has decided to withdraw our rulemaking on this issue. NHTSA is concerned about giving up the benefits of the standardized shift lever sequence. We would, however, be willing to do so if it were shown that the current standardized shift lever sequence was a needless impediment to new designs AND that there was no continuing need to standardize shift lever sequence or that some other sort of standardization would achieve the benefits without blocking new technology. In this case, BMW asked for and got an interpretation dated September 25, 1998 that said its contemplated shift lever sequence would not violate the existing requirements. Given that BMW's current plans do not give rise to the problems it identified in its petition and that no other commenter gave any information on designs where the standardized shift lever sequence would be a problem, it does not appear that there is any compelling reason in 1999 to do away with the benefits of a standardized shift lever sequence.

NHTSA received seven comments on the June 1998 notice. Of the comments received, five were from vehicle manufacturers (BMW, Meritor Automotive, Inc. (Meritor), Nissan North America, Inc. (Nissan), Mercedes-Benz of North America (Mercedes), and, filing jointly, the American Automobile Manufacturers Associations and the Association of International Automobile Manufacturers, Inc. (AAMA/AIAM)). One comment was from a safety advocacy group (Advocates for Highway and Auto Safety (AHAS)), and one was from a private citizen, Mr. John Chevedden.

A. Shift Lever Sequence

A significant question in the notice was whether the current shift lever sequence requirements should permit non-serial shift mechanisms. Only AHAS believed this should not be permitted. AHAS felt that any manufacturer asking for an amendment of the standard to allow non-serial shifting ''should demonstrate a compelling need and an equivalent, if not superior, safety outcome resulting from such changes.'' It did not feel that BMW has done this in its petition. The rest of the commenters supported the allowance of non-serial shifting. In fact, AAMA/AIAM argued that the standard does not currently preclude non-serial shifting. AAMA/AIAM stated that the standard specifies ''gear locations in relationship to one another, but it does not state that the act of shifting must be accomplished serially—or in any particular sequence.'' AAMA/AIAM further stated that the Society of Automotive Engineers (SAE) standards upon which Standard No. 102 is based are worded so as not to preclude push button transmissions.

Subsequent to the request for comments being published, BMW submitted a request for interpretation. This request was more specific in that it focused on the placement of the park control mechanism in the shift lever sequence. Also, in a meeting to discuss this request for an interpretation, BMW presented to the agency the design of the shifting mechanism it would like to use in a future vehicle model. With this design, a button that is separate from the shift lever is depressed to place the transmission in park. The rest of the transmission positions are activated from a joystick on the steering column. Pushing the joystick up places the transmission in reverse and pushing it down places it in drive. The lever comes back to the center (neutral) position after each gear change. The agency found nothing in the current standard that precludes BMW from implementing this new design. This view was given to BMW in the agency's written response to its request for interpretation.

Upon further consideration, NHTSA has concluded that some of its discussion in the request for comments could be incorrectly read as precluding non-serial shift mechanisms that do not use a ''shift lever,'' such as pushbuttons, keypads, or touch screens. We agree with the manufacturers' observations that Standard No. 102 only specifies a sequence for shift ''levers.'' Therefore, possible automatic transmission designs like pushbuttons, keypads, and touch screens are not subject to the shift lever sequence requirements, since they have no levers.

However, we do not agree with BMW's suggestion that the shift lever sequence requirements apply only to transmission designs that use a mechanical shift lever. The Random House Dictionary of the English Language defines a ''lever'' as: ''any rigid bar, straight or bent, that oscillates about a pivot and acts with other parts in the manner of a lever.'' This definition is broad enough to encompass conventional shift levers, regardless of whether they are on a mechanically or electronically controlled transmission, the joystick design BMW has chosen to pursue, or any other lever design. Any automatic transmission that uses a lever must comply with the shift lever

sequence requirements in Standard No. 102.

In addition, we have said that the design BMW intends to implement is not precluded by the standard. However, we are concerned that non-serial shift methods may not be as effective in preventing misshifting as those which are shifted serially. While Standard No. 102 only has a sequence requirement for shift levers, the result of the standard has been that all automatic transmission shift mechanisms are shifted serially in a PRNDL pattern. We believe that this standardization has been an important factor in the prevention of misshifting.

We are concerned that, as new designs for automatic transmissions that do not use a shift lever come into the market, there is nothing in Standard No. 102 to prevent misshifting in those vehicles. Since the public will be unfamiliar with those new designs, they would seem to be more at risk for misshifting. To address these concerns, NHTSA is studying what can be done to prevent misshifting on vehicles whose automatic transmission does not use a shift lever. Among other approaches, NHTSA is specifically considering the effectiveness and appropriateness of a requirement for automatic transmissions that the brake pedal be depressed to shift the vehicle out of the park position.

B. Other Issues

The agency also requested comments on a number of other issues related to Standard No. 102. First, the notice asked whether it would be appropriate to specify a maximum speed at which the transmission can be shifted between forward and reverse. BMW was the only commenter that saw some possible merit in a requirement of this type. However, BMW believes that the requirements would have to be vehicle-specific. For example, sport utility vehicles may need a higher maximum speed for the purpose of rocking the vehicle when it gets caught in mud or snow. Nissan and AAMA/AIAM both stated that this type of a requirement is not necessary. Nissan feels that the purpose of the standard is to prevent misshifting when the vehicle is at a standstill.

After considering the comments, we have determined that there is no current need for such a requirement. Ensuring that transmissions are not shifted between forward and reverse at higher speeds does more to protect the condition of the transmission than the vehicle occupants. Crashes resulting from a vehicle being shifted into an inappropriate gear, e.g., placing the transmission in reverse while traveling 55 miles per hour on a highway, are rare. We believe it is the duty of the manufacturer to determine the best way to protect the transmission from damage while in use.

The notice also asked whether there should be a requirement that the brake pedal be depressed, or some other action, in order to initiate a gear change between forward and reverse. BMW, Meritor, Nissan, and AASMA/AIAM were all opposed to this. They felt that it could be design restrictive. None of the commenters were in favor of such a requirement.

As noted above, the agency is considering such a requirement that the brake pedal be depressed in order to shift a vehicle out of Park as one alternative for addressing misshifting, even though no commenters supported such an amendment. The agency believes that this idea may have some merit, especially if shift mechanisms become more diverse. Therefore, this issue will be discussed if any future rulemaking is undertaken in this area.

Comments were requested on how display requirements should be changed, if at all, to accommodate non-serial shifting methods. BMW stated that the display should show gear positions, but not their positions relative to each other. For example, if a joystick were used, showing the actual relationship might require a three dimensional display. This could lead to confusion. Meritor also stated that *only* the currently engaged gear should be displayed. Nissan stated that no specific display should be required as it may restrict technology. AAMA/AIAM stated that the current display requirements should be maintained regardless of the method of shifting.

We have determined that the current display requirements should not be changed at this time. This is another aspect of vehicles with automatic transmissions that has remained unchanged for thirty years. Absent any demonstrated need for such a change, NHTSA is not proposing its display requirement now.

Finally, regarding the transmission braking effect, the notice asked whether the standard should be less specific by allowing other means of slowing down the vehicle when the transmission is shifted into a lower forward gear. BMW, Meritor, Nissan, and AAMA/AIAM all felt that alternatives should be allowed for this requirement. While these commenters all supported the concept of creating alternatives to meet the transmission braking effect, none was able to offer any specific discussion of how to achieve that concept. Because this issue appears to be technically challenging, the agency will not consider it further until there has been a more thorough discussion of the issues.

For the reasons set forth above, NHTSA has decided to withdraw the rulemaking action on whether to issue a proposal to amend the Standard No. 102 to add requirements for vehicles without conventional mechanical transmission shift levers.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: November 8, 1999.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99–29684 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 64, No. 219
Monday, November 15, 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

Commodity Credit Corporation

Notice of Request for Reinstatement and Revision of a Previously Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the intentions of the Commodity Credit Corporation (CCC) to request reinstatement and revision to an information collection previously approved in support of the Production Flexibility Contract (PFC) program. The Federal Agriculture Improvement and Reform Act of 1996, provided owners and producers on farms the opportunity to enter into the production flexibility contracts with the CCC for fiscal years 1996 through 2002. Owners and producers who participate and fully comply with the terms of the production flexibility contracts and regulations will receive payments. PFCs, revisions to the PFCs and permanent reductions of all or a portion of the production flexibility contract acreage must be documented.

DATES: Comments on this notice must be received on or before January 14, 2000, to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Lynn H. Tjeerdsma, Branch Chief, Emergency Preparedness and Programs Branch, USDA, FSA, STOP 0517, 1400 Independence Avenue, S.W., Washington, D. C. 20250–0517, (202) 720–6602.

SUPPLEMENTARY INFORMATION:

Title: Production Flexibility Contracts for Wheat, Feed Grains, Rice and Upland Cotton, 7 CFR part 1412.

OMB Control Number: 0560–0092.

Type of Request: Reinstatement and revision of a previously approved information collection.

Abstract: Eligible owners or producers signed a Production Flexibility Contract (PFC) to participate in the program authorized by Title I of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act). The 1996 Act provides that farms having a history of participating in government programs could be enrolled in a PFC. The production flexibility contract worksheet is provided to the owner or producer to confirm the acreage that will be enrolled for participation, designate each producer's share request an advance payment, and provide for undesignated shares for any fiscal year where payment shares are unknown. In addition, the worksheet allows for producers to adjust the level of participation and projects payments for the contract period. The owner is provided the ability to make voluntary requests to reduce the contract acreage for a crop on the farm in order to remain eligible for the PFC. As a condition of eligibility for contract payments, the operator or owner must timely submit a report of fruit and vegetable acreage. The county Farm Service Agency (FSA) committee determines whether requests are properly completed, whether payment shares are proper and whether program requirements are met for payment approval. Information collected for the PFC program is required for participation and is not available from any other source.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 60 minutes per response.

Respondents: Individual Producers.

Estimated Number of Respondents: 4,592,500.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 2,296,250 hours.

Proposed topics for comment include: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used: (c) ways to enhance the quality, utility and clarity of the information collected: or (d) ways to minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Lynn H. Tjeerdsma, Branch Chief, USDA, Farm Service Agency, Production, Emergencies, and Compliance Division, Stop 0517, 1400 Independence Avenue, S.W., Washington, D.C. 20250–0517, (202) 720–6602. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on November 5, 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation

[FR Doc. 99–29724 Filed 11–12–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Quality Samples Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Commodity Credit Corporation is establishing, on a pilot basis, a ''Quality Samples Program'' to help develop and expand markets for U.S. agricultural commodities.

DATES: All proposals must be received by 5:00 p.m. Eastern Standard Time, December 15, 1999.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, Room 4932–S, Stop 1042, U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, D.C. 20250–1042, or telephone: (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that proposals may be submitted for participation in a ''Quality Samples Program'' (QSP). The QSP is a pilot program designed to encourage the development and expansion of export

markets for U.S. agricultural commodities, under the authority of the CCC Charter Act, 15 U.S.C. 714c(f). The QSP is designed to assist U.S. entities in providing commodity samples to potential foreign importers to promote a better understanding and appreciation for the high quality of U.S. agricultural commodities. CCC will consider providing funds on a grant basis to U.S. entities to assist them in providing such samples if a proposal has been submitted by the interested U.S. entity and accepted by CCC. CCC will review all proposals it receives against the evaluation criteria contained herein and award QSP funds on a competitive basis.

Under the QSP, CCC will enter into agreements with those entities whose proposals have been accepted. QSP participants will be responsible for procuring (or arranging for the procurement of) commodity samples, exporting the samples, and providing the technical assistance necessary to facilitate successful use of the samples by importers. After completion of a QSP project, participants may submit claims for reimbursement of the costs associated with providing the samples to the extent that CCC has agreed to pay such costs. For example, CCC may agree to reimburse the cost of procuring and exporting the samples, including the commodity purchase price, document preparation fees, and commodity transportation costs. CCC will not reimburse the costs of providing technical assistance. The QSP agreement between CCC and the participant will include a maximum amount that may be reimbursed. A QSP participant will be reimbursed after CCC reviews its claim and determines that the claim is complete. The QSP activity will be subject to verification by the FAS Compliance Review Staff. Upon request, a QSP participant shall provide to CCC the original documents which support the participant's reimbursement claims. CCC may deny a claim for reimbursement if the claim is not supported by adequate documentation.

The QSP will be administered by personnel of the Foreign Agricultural Service (FAS). CCC will carefully monitor the operation of the pilot QSP through Fiscal Year 2000. Based upon experience gained during this pilot phase, CCC will, after opportunity for public comment, consider continuing the program. CCC will not obligate more than $2.5 million for the QSP during this pilot phase.

Proposal Process

To be considered for participation in the QSP, interested parties should submit proposals to: Kent Sisson, Marketing Operations Staff, Foreign Agricultural Service, Room 4932–S, Stop 1042, U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, D.C. 20250–1042. Telephone: (202) 720–4327. QSP proposals must contain complete information about the proposed sample projects. Interested parties can request a suggested format for proposals from the same address. Organizations which submitted QSP-type proposals in their Unified Export Strategy (UES) applications in March 1999 do not need to resubmit those proposals as they will automatically be considered. However, such applicants are welcome to modify and resubmit their proposals after reading this announcement.

General Scope of QSP Projects

As a general matter, QSP projects should be designed to accomplish the following goals:

- Projects should benefit the represented industry and not a specific company or brand;
- Projects should promote a new use or market for a U.S. product, or a new varietal type of a U.S. product, rather than promote the substitution of one established U.S. product for another;
- Sample commodities provided in a QSP project must be readily available on a commercial basis;
- Sample commodities must be subject to further processing or substantial transformation in the importing country;
- Samples provided in a QSP project shall not be used as part of a retail promotion or supplied directly to consumers; and
- Samples shall be in quantities less than a typical commercial sale and limited to the amount sufficient to achieve the project goal (e.g., not more than a full commercial mill run in the destination country).

QSP projects shall target foreign importers who:

- Have not previously purchased a particular U.S. commodity;
- Are unfamiliar with a particular U.S. variety, quality attribute, or end-use characteristic;
- Have been unsuccessful in previous attempts to import, process, and market a particular U.S. commodity (e.g., because of improper specification, blending, or formulation; or sanitary or phytosanitary (SPS) issues);
- Are interested in testing or demonstrating the benefits of a particular U.S. commodity; or
- Need technical assistance in processing or using a particular U.S. commodity.

Entities interested in participating in the QSP are not required to submit proposals in any specific format; however, FAS recommends that proposals contain, at a minimum, the following: (a) Organizational information, including:

- Organization's name, address, Chief Executive Officer (or designee), and Federal Tax Identification Number (TIN);
- Type of organization;
- Name, telephone number, fax number, and e-mail address of the primary contact person;
- A description of the organization and its membership;
- A description of the organization's prior export promotion experience; and
- A description of the organization's experience in implementing an appropriate trade/technical assistance component;

(b) Market information, including:

- An assessment of the market;
- A long-term strategy in the market; and
- U.S. export value/volume and market share (historic and goals) for 1997–2005;

(c) Project information, including:

- A brief project title;
- Request for funding;
- A brief description of the specific market development trade constraint to be addressed by the project, performance measures for the years 2000–2002 which will be used to measure the effectiveness of the project, a benchmark performance measure for 1999, the viability of long term sales to this market, the goals of the project, and the expected benefits to the represented industry;
- A description of the activities planned to address the constraint, including how the sample will be used in the end-use performance trial, the attributes of the sample to be demonstrated and their end-use benefit, and details of the trade/technical servicing component associated with the sample;
- A sample description (*i.e.*, commodity, quantity, quality, type, and grade), including a justification for selecting a sample with such characteristics;
- An itemized list of all estimated costs associated with the project for which reimbursement will be sought (e.g., commodity costs, freight, inspection and weighing, freight forwarding services, and document preparation fees); and
- Ports of export and delivery;

(d) Importer information, including:

- Name, address, and telephone of primary contact person;

• The reason why the importer was selected for the project; and

• The importer's role in the project regarding handling and processing the commodity sample; and

(e) Information indicating all funding sources, and amounts to be contributed by each entity that will contribute to implementation of the proposed project. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, CCC, FAS, or other Federal agencies. Contributed resources may include cash, goods, and services.

Review Process

FAS will use the following criteria in evaluating proposals:

• The overall quality of the proposal;

• The ability of the organization to provide an experienced staff with the requisite technical and trade experience to execute the proposal;

• The extent to which the proposal is targeted to a market in which the United States is generally competitive;

• The potential for expanding commercial sales in the proposed market;

• The nature of the specific market constraint involved and how well it is addressed by the proposal;

• The extent to which the importer's contribution in terms of handling and processing enhances the potential outcome of the project;

• The amount of reimbursement requested and the organization's willingness to contribute resources, including cash and goods and services of the U.S. industry and foreign third parties; and

• How well the proposed technical assistance component assures that performance trials will effectively demonstrate the intended end-use benefit.

FAS will establish a QSP Committee (Committee) for the purpose of reviewing proposals for eligibility and completeness and allocating CCC funds. The Committee will evaluate each proposal against the factors described above. The purpose of this review is to identify meritorious proposals, recommend an appropriate funding level for each proposal based upon these factors, and submit the proposals and funding recommendations to the Deputy Administrator, Commodity and Marketing Programs.

Agreements

Following approval of a proposal, CCC will enter into an agreement with the organization that submitted the proposal. Agreements will incorporate the proposal as approved by FAS. Each agreement will identify terms and conditions pursuant to which CCC will reimburse certain costs of the project. Agreements will also outline the responsibilities of the participant, including, but not limited to, procurement (or arranging for procurement) of the commodity sample at a fair market price, arranging for shipment of the commodity sample within the time limit specified in the agreement (generally 90 days), compliance with cargo preference requirements (shipment on United States flag vessels, as may be required), timely and effective implementation of technical assistance, and submission of a written evaluation report within 6 months of completion of the project. Evaluation reports should address the performance measures presented in the proposal.

Closing Date for Proposals

All proposals must be submitted in triplicate and received by 5:00 p.m. Eastern Standard Time, [insert date 30 days after date of publication in the **Federal Register**], at one of the following addresses:

Hand Delivery (including FedEx, DHL, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, S.W., Washington, D.C. 20250–1042.

U.S. Postal Delivery: Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW, Washington, D.C. 20250–1042.

Dated: November 4, 1999.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service, Vice President, Commodity Credit Corporation.

[FR Doc. 99–29656 Filed 11–12–99; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Upland Cotton Domestic User/Exporter Agreement

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The purpose of this notice is to advise potential Upland Cotton Domestic User/Exporter Agreement (Agreement) holders and other interested parties of the implementation and effective date of the new Revision 6 Agreement that the Commodity Credit Corporation (CCC) will use to carry out the Upland Cotton User Marketing Certificate (Step 2) Program, authorized under the Federal Agriculture Improvement and Reform Act of 1996, as amended.

EFFECTIVE DATE: November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Barry Klein, Warehouse and Inventory Division, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, S.W., STOP 0553, Washington, D.C. 20250–0553, telephone (202) 720–4647, or FAX (202) 690–0014, E-Mail: Barry__Klein@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION: In keeping with the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, enacted October 22, 1999, CCC will reinstate the Step 2 Program for eligible upland cotton beginning October 1, 1999. All potential Domestic and Exporter Agreement holders who sign and return the Revision 6 Agreement to the Kansas City Commodity Office, P.O. Box 419205, Kansas City, MO 64141–6205, by no later than November 30, 1999, will be eligible to receive the Step 2 payment in effect during the week in which the upland cotton bales were consumed or exported. Prompt Payment Act provisions will not apply retroactively. Prompt Payment interest will be calculated beginning 30 days from receipt of the completed application for payment. Those potential Agreement holders who fail to sign and return the new Revision 6 Agreement by November 30, 1999, will have an effective date upon signature and acceptance by CCC. An electronic copy of the Revision 6 Agreement is available on the World Wide Web at www.fsa.usda.gov/daco/step2.

Signed at Washington, DC, on November 3, 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99–29726 Filed 11–12–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities; Proposed Collection; Comment Request; The Summer Food Service Program Claim Reimbursement Form FNS–143

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service is publishing for public comments a summary of an approval collection for the Summer Food Service Program Claim for Reimbursement, Form FNS–143.

DATES: Written comments must be submitted on or before January 14, 2000.

ADDRESSES: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Susan Fouts, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instruction should be directed to Susan Fouts, Child Nutrition Division (703) 305–1506.

SUPPLEMENTARY INFORMATION:

Title: Summer Food Service Program Claim for Reimbursement, Form FNS–143.

OMB Number: 0584–0041.

Expiration Date: January 31, 2000.

Type of Request: Extension of a currently approved collection.

Abstract: The Summer Food Service Program Claim for Reimbursement Form is used to collect meal and cost data from sponsors to determine the reimbursement entitlement for meals served. The form is sent to the Food and Nutrition Service's (FNS) Regional Offices where it is entered into a computerized payment system. The payment system computes earnings to date and the number of meals to date and generates payments for the amount of earnings in excess of prior advance and claim payments. If the information is not provided on the claim form, the sponsor would not have a vehicle for receiving reimbursement. Earned reimbursement in the Summer Food Service Program is based on performance, *i.e.*, meals served. Recipients are reimbursed the lesser of meals served times rates of actual costs. To fulfill the earned reimbursement requirements set forth in the Summer Food Service Program Regulations issued by the Secretary of Agriculture (7 CFR 225.9), the meal and cost data must be collected on the FNS–143 claim form. In addition, this form is an intrinsic part of the accounting system being used currently to ensure reimbursement as well as to facilitate adequate record keeping. This request is being made to extend the current information collection for an additional three years. Current methods are the only practical means of collecting this information considering the resources of form users. The information collected is used by FNS to manage, plan, evaluate, and account for government resources. The reports and records are required to ensure the proper and judicious use of public funds.

Estimated Number of Respondents: 530.

Number of Responses Per Respondent: 3.

Estimated Total Annual Responses: 1590.

Hours Per Response: .5 hours per response.

Total Annual Reporting Burden: 795.

Number of Record Keepers: 530.

Total Record Keeping Hours: 398.

Total Annual Burden Hours: 1193 (total hours per response plus total record keeping hours).

Dated: November 4, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–29727 Filed 11–12–99; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Maximum Dollar Amount on Loan and Grant Awards Under the Rural Economic Development Loan and Grant Program for Fiscal Year 2000

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service hereby announces the maximum dollar amount on loan and grant awards under the Rural Economic Development Loan and Grant (REDLG) program for fiscal year (FY) 2000. The maximum dollar award on zero-interest loans for FY 2000 is $450,000. The maximum dollar award on grants for FY 2000 is $200,000. The maximum loan and grant awards stated in this notice are effective for loans and grants made during the fiscal year beginning October 1, 1999, and ending September 30, 2000. REDLG loans and grants are available to Rural Utilities Service electric and telephone utilities to assist in developing rural areas from an economic standpoint.

FOR FURTHER INFORMATION CONTACT: Patricia Wing, Loan Specialist, Rural Business-Cooperative Service, USDA, STOP 3225, Room 6870, 1400 Independence Avenue, SW, Washington, DC 20250, Telephone: (202) 720–9558. FAX: (202) 720–6561. E-mail: PWing@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The maximum loan and grant awards are determined in accordance with 7 CFR 1703.28. The maximum loan and grant awards are calculated as 3.0 percent of the projected program levels; however, as specified in 7 CFR 1703.28(b), regardless of the projected total amount that will be available, the maximum size may not be lower than $200,000. The projected program level during FY 2000 for zero-interest loans is $15 million and the projected program level for grants is $4 million. Applying the specified 3.0 percent to the program level for loans results in the maximum loan award of $450,000. Applying the specified 3.0 percent to the program level for grants results in an amount lower than $200,000. Therefore, the maximum grant award for FY 2000 will be $200,000.

Dated: November 4, 1999.

Wilbur T. Peer,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 99–29633 Filed 11–12–99; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Notice of Stakeholder's Meeting on Rural Community Development Initiative (RCDI)

AGENCIES: Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), and Rural Utilities Service, USDA.

ACTION: Public notice of stakeholder's meeting on Rural Community Development Initiative.

SUMMARY: This Notice announces a Stakeholder's Meeting on the Rural Community Development Initiative (RCDI). The intent of this Stakeholder's Meeting is to provide information on RCDI and receive public comments. An appropriation of $6,000,000 for grants for RCDI has been provided under the Rural Community Advancement Program (RCAP). These funds are intended to increase capacity-building among private, nonprofit community development organizations and low income rural communities in the areas of housing, community facilities, and community and economic development. Qualified private and public (including tribal) intermediary organizations proposing to carry out technical assistance programs will be eligible to receive the funding. These organizations will be required to provide matching funds from other sources in an amount equal to the funds provided under the RCDI.

DATES: The Stakeholder's Meeting will be conducted on November 30, 1999, from 1:00 p.m. to 5:00 p.m. and is open to the public.

ADDRESSES: The meeting will be held at the Jamie L. Whitten Federal Building, U.S. Department of Agriculture, 12th and Jefferson Drive, SW, Washington, DC. The meeting will be in Room 107–A. The Jamie L. Whitten Federal Building may be accessed via the Metro by exiting at the Smithsonian station.

FOR FURTHER INFORMATION CONTACT: Beth Jones, Senior Loan Specialist, Community Programs Servicing and Special Authorities Branch, RHS, USDA, 1400 Independence Ave., SW, STOP 0787, Washington, DC 20250–0787, Telephone (202) 720–1498, E-mail epjones@rdmail.rural.usda.gov. If you are unable to attend and would like to submit written comments, they must be received by November 22, 1999.

Dated: November 5, 1999.

Inga Smulkstys,

Acting Under Secretary for Rural Development.

[FR Doc. 99–29634 Filed 11–12–99; 8:45 am]

BILLING CODE 3410–XV–U

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to and deletion from the Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a commodity previously furnished by such agencies.

EFFECTIVE DATE: December 15, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 12 and October 1, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 12284 and 53316) of proposed addition to and deletion from the Procurement List:

Addition

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List:

Base Supply Center, Pennsylvania Air National Guard Base, Pittsburgh International Airport, Coraopolis, Pennsylvania.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodity.

3. The action may result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodity is hereby deleted from the Procurement List:

Cover Assembly, Generator
2805–00–356–1985

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–29713 Filed 11–12–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be

furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 15, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.
2. The action will result in authorizing small entities to furnish the commodity and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Line, Multi-Loop 1670–01–B75–0752
NPA: Industrial Opportunities, Inc. Marble, North Carolina

Services

Commissary Shelf Stocking, Custodial, Receiving/Storage/Handling, Portsmouth Naval Shipyard, Portsmouth, New Hampshire
NPA: Goodwill Industries of Northern New England, Portland, Maine

Janitorial/Custodial

VA Greater Los Angeles Regional, Healthcare System, Consolidated Mail Outpatient Pharmacy, 11301 Wilshire Boulevard, Building 222, Los Angeles, California
NPA: Job Options, Inc., San Diego, California

Janitorial/Custodial

VA Outreach Center, 9737 Haskell Avenue, Sepulveda, California, NPA: Job Options, Inc., San Diego, California

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will result in authorizing small entities to furnish the commodities to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Ladder, Extension (Wood)
5440–00–223–6025

Executive/Personal Time Management System
7510–01–429–7081
7510–01–429–7038
7510–01–429–7065
7510–01–429–7076
7510–01–429–7040
7510–01–429–7053
7510–01–429–7068
7510–01–429–9609
7510–01–429–7841
7510–01–429–7074
7510–01–429–7035
7510–01–429–7046
7510–01–429–7066
7510–01–429–7072
7510–01–429–7078
7510–01–429–7034
7510–01–429–7051
7530–01–429–6938
7510–01–429–7083
7510–01–429–7043
7510–01–429–7059
7530–01–429–6940
7530–01–429–9505
7510–01–429–7843
7510–01–429–9986
7510–01–429–7835
7510–01–429–9985

Broom, Upright
7920–00–292–4370
7920–00–292–2369

Beverly L. Milkman,
Executive Director.

[FR Doc. 99–29714 Filed 11–12–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Questionnaire for Building Permit Official

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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 14, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to G. Daniel Sansbury, Census Bureau, Room 2105, FOB 4, Washington, DC 20233–6900, (301) 457–1321.

SUPPLEMENTARY INFORMATION

I. Abstract

The Census Bureau uses the Computer-Assisted Personal Interviewing (CAPI) electronic questionnaire SOC–QBPO to collect information from state and local building permit officials, such as (1) the types of permits they issue, (2) the length of time a permit is valid, (3) how they store the permits, and (4) the geographic coverage of the permit system. We need this information to carry out the sampling for the Survey of Housing Starts, Sales and Completions (OMB number 0607–0110), also known as the Survey of Construction (SOC). The SOC provides widely used

measures of construction activity, including the economic indicators Housing Starts, Housing Completions, and New Housing Sales.

We plan no changes to the information collection methodology. We have increased the number of respondents from 835 to 900 due to local changes in municipal laws. The land area covered by the survey has not increased, but when a municipality decides to begin issuing its own permits independently from the jurisdiction that previously covered their permits (usually a county government), that new municipality becomes part of the survey.

II. Method of Collection

The Census Bureau uses its field representatives to obtain information on the operating procedures of a permit office. The field representative visits the permit office, conducts the interview, and completes the electronic form.

III. Data

OMB Number: 0607–0125.

Form Number: SOC–QBPO.

Type of Review: Regular Review.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 900.

Estimated Time Per Response: 15 minutes.

Estimated Total Annual Burden Hours: 225 hours.

Estimated Total Annual Cost: The estimated cost to the respondent is $3,658 based on an average hourly salary of $16.26 [1] for state and local government employees.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

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.

[1] Taken from the Census Bureau's Annual Survey of State and Local Government Employment March 1998.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 8, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–29628 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1064]

Approval for Subzone Expansion (Shipbuilding) Foreign-Trade Subzone 124H, Bollinger Shipyards Lockport, LLC; Lockport, LA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the South Louisiana Port Commission, grantee of FTZ 124, has requested authority on behalf of Bollinger Shipyards Lockport, LLC (Bollinger), operator of Subzone 124H at the Bollinger shipyard located in Lockport, Louisiana, to expand Subzone 124H to include four new sites in Larose (LaFourche Parish) and Amelia (St. Mary's Parish), Louisiana (FTZ Doc. 17–99, filed 4–29–99);

Whereas, notice inviting public comment was given in the **Federal Register** (64 FR 25476, 5–12–99);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval were subject to the standard shipyard restriction on foreign steel mill products;

Now therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including § 400.28, and further subject to the restrictions listed below.

1. Any foreign steel mill products admitted to the subzone, including plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to Customs duties in accordance with applicable law, unless the Executive Secretary determines that the same item is not then being produced by a domestic steel mill.

2. In addition to the annual report, Bollinger Shipyards Lockport, LLC, shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

Signed at Washington, DC, this 4th day of November 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–29747 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 54–99]

Foreign-Trade Zone 21—Charleston, SC, Area; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board), by the South Carolina State Ports Authority, grantee of Foreign-Trade Zone 21, requesting authority to expand its zone in the Charleston, South Carolina, area, within the Charleston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 28, 1999.

FTZ 21 was approved on June 12, 1975 (Board Order 106, 40 FR 25613, 6/17/75) and expanded on February 28, 1995 (Board Order 734, 60 FR 12735, 3/8/95); June 20, 1996 (Board Order 832, 61 FR 33491, 6/27/96); October 23, 1996 (Board Order 850, 61 FR 57383, 11/6/96); and, September 5, 1997 (Board Order 918, 62 FR 48591, 9/16/97). The zone project includes 13 general-purpose sites in the coastal area of South Carolina: *Site 1* (134 acres)—Tri-County Industrial Park, Summerville; *Site 2* (57 acres)—Cainhoy Industrial Park, Wando; *Site 3* (160 acres)—Crowfield Corporate Center, Goose Creek; *Site 4* (998 acres)—Low Country

Regional Industrial Park, Early Branch; *Site 5* (2,040 acres)—SCSPA's terminal complex, Charleston, including 8 acres temporarily transferred to a portion of the former Charleston Naval Base and Shipyard, N. Charleston; *Site 6* (19 acres)—Meadow Street Business Park, Loris; *Site 7* (1,782 acres)—Myrtle Beach International Airport /former Myrtle Beach U.S. Air Force Base, Myrtle Beach; *Site 8* (82 acres)—within Wando Park, Mount Pleasant; *Site 9* (548 acres)—Charleston Business Park, Charleston; *Site 10* (105 acres)—Ashley Industrial Park, N. Charleston; *Site 11* (459 acres)—Charleston International Commerce Park, Charleston; *Site 12*—(1,120 acres)—Palmetto Commerce Park, N. Charleston; and, *Site 13*—(76 acres)—N. Charleston Convention Center complex, N. Charleston.

The applicant is now requesting authority, on behalf of the Charleston Naval Complex Redevelopment Authority, to expand the general-purpose zone to include an additional site (*Proposed Site 14*; 1,514 acres) located at the former Charleston Naval Base and Shipyard, Cosgrove Avenue, North Charleston. The property is owned by the U.S. Department of the Navy, which is in the process of conveying the property to the Charleston Naval Complex Redevelopment Authority, a state agency, as part of a base conversion project. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 14, 2000. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period January 31, 2000.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 5300 International Blvd., Suite 201–C, N. Charleston, S.C. 29418

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 4008, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: November 8, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–29745 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1062]

Approval for Expanded Manufacturing Authority (Motorcycle Engines) Within Foreign-Trade Subzone 167B, Polaris Industries, Inc.; Osceola, WI

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, Polaris Industries, Inc., operator of FTZ Subzone 167B, located in Osceola, Wisconsin, has requested authority to expand the scope of FTZ authority to include additional internal-combustion engine manufacturing capacity (motorcycle engines) under FTZ procedures (FTZ Doc. 48–98, filed 11–3–98);

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 60294, 11–9–98);

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now Therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 4th day of November 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–29746 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

October 1999 Sunset Reviews; Final Results of Reviews and Revocation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Final results of Sunset Reviews: Revocation and antidumping duty orders on hot-rolled lead and bismuth carbon steel products from Brazil C–351–812; hot-rolled lead and bismuth carbon steel products from Brazil A–351–811; hot-rolled lead and bismuth carbon steel products from France A–427–804; hot-rolled lead and bismuth carbon steel products from France C–427–805; hot-rolled lead and bismuth carbon steel products from Germany C–428–812; hot-rolled lead and bismuth carbon steel products from Germany A–428–811; hot-rolled lead and bismuth carbon steel products from United Kingdom C–412–811; and hot-rolled lead and bismuth carbon steel products from United Kingdom A–412–810.

SUMMARY: On October 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of antidumping duty orders on hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany, and the United Kingdom (64 FR 53320). In addition, the Department initiated sunset reviews of countervailing duty orders on hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany, and the United Kingdom (64 FR 53320). The Department is revoking the aforementioned antidumping and countervailing duty orders on hot-rolled lead and bismuth carbon steel because no domestic party responded to the sunset review notice of initiation by the applicable deadline.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Mark D. Young or Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1993, the Department issued antidumping and countervailing duty orders on hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany, and the United Kingdom (58 FR 15324). Pursuant to section 71(c) of the Tariff Act of 1930, as amended (''the Act''), the Department initiated sunset reviews of these orders by publishing notice of the initiation in the **Federal Register** (October 1, 1999 (64 FR 53320)). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for these proceedings to

inform them of the automatic initiation of the sunset reviews on these orders.

However, no domestic interested party in the sunset reviews on these orders responded to the notice of initiation by the October 19, 1999 deadline (see section 351.218(d)(1)(i) of Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13520 (March 20, 1998) (''Sunset Regulations'')).

Determination

Pursuant to section 751(c)(3)(A) of the Act and section 351.218(d)(1)(iii)(B)(3) of the Sunset Regulations, if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the order. Because no domestic interested party in the sunset reviews of hot-rolled lead and bismuth carbon steel products from Brazil, France, Germany, or the United Kingdom responded to the notice of initiation by the applicable deadline, we are revoking these antidumping and countervailing duty orders.

Effective Date of Revocation

Pursuant to section 751(c)(6)(A)(iv) of the Act, the Department will instruct the United States Customs Service to terminate the suspension of liquidation of the merchandise subject to these orders entered, or withdrawn from warehouse, on or after January 1, 2000. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping and countervailing duty deposit requirements. The Department will complete any pending administrative reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review:

Dated: November 8, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29753 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–805]

Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands; Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of the antidumping duty administrative review; aramid fiber formed of poly para-phenylene terephthalamide from the Netherlands.

EFFECTIVE DATE: November 15, 1999.

SUMMARY: On July 8, 1999, the Department of Commerce (''the Department'') published the preliminary results of its administrative review of the antidumping duty order on aramid fiber formed of poly para-phenylene terephthalamide (''PPD–T aramid'') from the Netherlands. The review covers one manufacturer/exporter and the period June 1, 1997 through May 31, 1998.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have revised the results from those presented in the preliminary results of review.

FOR FURTHER INFORMATION CONTACT: Russell Morris, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; Telephone: (202) 482–1775.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR 351 (1998).

Background

The Department published in the **Federal Register** the antidumping duty order on PPD–T aramid from the Netherlands on June 24, 1994 (59 FR 32678). On June 10, 1998, we published in the **Federal Register** (63 FR 31717) a notice of ''Opportunity to Request an Administrative Review'' of this order covering the period June 1, 1997, through May 31, 1998. In accordance with 19 CFR 351.213(b), Aramid Products V.o.F. and Akzo Nobel Aramid Products, Inc. (collectively ''Akzo'' or respondent), and E.I. DuPont de Nemours and Company (''petitioner''), requested that we conduct an administrative review of the aforementioned period of review (''POR''). On July 28, 1998, the Department published a notice of ''Initiation of Antidumping Review'' (63 FR 40258). On July 8, 1999, the Department published the preliminary results of the review. *See Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Preliminary Results of Antidumping Administrative Review*, 64 FR 36841 (July 8, 1999). The Department has now completed the review in accordance with section 751 of the Act.

Scope of Review

The products covered by this review are all forms of PPD–T aramid from the Netherlands. These consist of PPD–T aramid in the form of filament yarn (including single and corded), staple fiber, pulp (wet or dry), spun-laced and spun-bonded nonwovens, chopped fiber, and floc. Tire cord is excluded from the class or kind of merchandise under review. This merchandise is currently classifiable under the *Harmonized Tariff Schedule of the United States (''HTSUS'')* item numbers 5402.10.3020, 5402.10.3040, 5402.10.6000, 5503.10.1000, 5503.10.9000, 5601.30.0000, and 5603.00.9000. The *HTSUS* item numbers are provided for convenience and Customs purposes. The written description of the scope remains dispositive.

Fair Value Comparisons

We calculated constructed export price (''CEP'') and normal value (''NV'') based on the same methodology used in the preliminary results.

Changes From the Preliminary Results

The Department corrected a clerical error that involves a missing variable which affected the assessment rate. *See* Comment 3.

Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from respondent and petitioner on August 9, 1999, and rebuttal comments from Akzo on August 16, 1999.

Comment 1: Use of Parents' Consolidated Financial Statements. Petitioner contends that the Department should revise Akzo's reported U.S. indirect selling expenses, arguing that the calculation of the net interest expense, a component of indirect selling expenses, was improperly based on the consolidated financial statements of Akzo Nobel Inc., and should have instead been based upon the financial statements of Akzo Nobel Aramid Product Inc. (''ANAPI''—the exclusive sales agent of Aramid Products V.o.F. in the United States (''Aramid'')).

Petitioner also asserts that the Department should reject Akzo's use of consolidated financial data in calculating the net interest expenses included in Aramid's cost of production, because the consolidated financial data does not reflect Aramid's actual financing expenses.

Petitioner acknowledges that the Department generally uses consolidated financial expense data to calculate a subsidiary's financing expenses. However, petitioner asserts that this is not an automatic requirement. Further, petitioner contends that the Department must not use consolidated data where using the consolidated data would distort actual financing expenses. Petitioner asserts that such would be the case in the instant circumstance because Akzo's reported financial interest expense factor is unrelated to the financing requirements of Akzo's PPD–T aramid fiber business in the United States. Moreover, petitioner argues that Akzo justifies its use of consolidated figures on the grounds that the U.S. parent borrows on behalf of its related companies, and then charges the units a share of this cost, without explaining how it allocates the financing expenses.

Petitioner argues that Akzo calculated the reported financing expenses based on outstanding loans between the U.S. parent and ANAPI and speculates as to the reasons why ANAPI borrowed money from its parent company to finance its U.S. operations. Petitioner further argues that the Department and the Court of International Trade (''CIT'') misapplied binding precedent when affirming the Department's use of Akzo's consolidated data in *E.I. DuPont de Nemours & Co.* v. *United States,* No. 96–11–02509, Slip Op. 98–7, 1998 WL 42598 (CIT January 29, 1998) (hereinafter ''*DuPont I*''). Moreover, petitioner contends that the Department and the CIT in *DuPont I* failed to follow the express mandate of the 1994 amendments to the antidumping statute, which directs the Department to capture ''all of the actual costs incurred in producing and selling'' the subject merchandise and to ensure that reported costs constitute a representative measure of the respondent's true costs.

Akzo argues that the CIT's decisions in *DuPont I* and more recently in *E.I. DuPont de Nemours & Co.* v. *United States,* No. 97–08–1335, Slip Op. 99–47, (CIT June 2, 1999) (hereinafter ''*DuPont II*''), properly affirmed the Department's use of Akzo's consolidated financial expense in the first, second, and third administrative reviews, respectively. Akzo urges the Department to follow the same methodology in the final results of this administrative review. Further, Akzo emphasizes that petitioner did not point to any evidence or provide any new information to justify a deviation from the Department's standard practice of using the parent's consolidated interest expense in cases where there is a consolidated group of companies.

Additionally, Akzo argues that the petitioner's claim that the amendments to the antidumping statute set a new standard for calculating interest expense is in error. Contrary to petitioner's argument, Akzo contends that neither the SAA nor the amended section 773(f) of the antidumping statute directs the Department to change its existing practice. Akzo refers to the CIT's analysis of the statutory amendment and the SAA and the CIT's subsequent finding that neither the amended statute nor the SAA mandated a change in Commerce's past practice at issue here. *See* DuPont I at 7–9. Moreover, Akzo points out that the petitioner's argument on the issue was dismissed by the CIT both in *DuPont I* and in *DuPont II.*

Akzo claims that the only loans and corresponding interest expense on the books of ANAPI and Aramid are intercompany loans from the parent companies, Akzo Nobel Inc. and Akzo Nobel N.V. In addition, Akzo argues that the Department has repeatedly verified that the financial statements of the subsidiary companies reconcile to the financial statements of the parent companies. Akzo explains that the only actual interest expense is recorded on the books of the parent companies because it is only these entities that actually borrow money and incur the related interest expense. Akzo asserts that it is only the parent that determines the sources of money, borrows the money, and incurs the actual interest expense and that therefore, petitioner's speculations on how and why companies borrow money and how a parent determines the amount of loans and interest are irrelevant because these are internal decisions that take into account a variety of factors.

Department's Position: We agree with Akzo. In the first, second and third administrative reviews, petitioner similarly urged the Department to rely on Aramid's own financial records to determine its net interest expense, instead of following the Department's normal practice of using the parent company's financing expenses incurred on behalf of the consolidated group of companies. In the second and third reviews, petitioner's emphasis has been on the interest expense included in U.S. indirect selling expenses rather than on the interest expense included in the cost of production (''COP'') and constructed value (''CV'') (as was the case in the first review). Nevertheless, the issues are the same. Petitioner disagrees with the Department's long-standing practice of basing financing expenses on consolidated interest expenses. The Department has consistently disagreed with petitioner's position, explaining in detail that any departure from the Department's normal practice in this case was not warranted in light of Akzo Nobel N.V.''s majority ownership interest in Aramid, which constituted *prima facie* evidence of the parent's corporate control. For a detailed explanation of this issue, see *Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review,* 61 FR 51406 (October 2, 1996) (''*Final Aramid Fiber I''); Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review,* 62 FR 38058 (July 16, 1997) (''*Final Aramid Fiber II*''); and *Aramid Fiber Formed of Poly-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review,* 63 FR 37516 (July 13, 1998) (''*Final Aramid Fiber III'').*

On January 29, 1998, the CIT affirmed the Department's determination on this issue in the first administrative review, ruling that neither the SAA nor the amended statute mandate a change of practice with respect to using a parent company's consolidated statements when calculating the respondent's interest expense ratio, and that this practice is consistent with the principle of allocating costs in a manner that reasonably reflects the actual costs. *See DuPont I* at 8–9. (Emphasis added). *Citing Gulf States Tube Div. of Quanex Corp.* v. *United States,* Slip Op. 97–124, Consol. Court No. 95–09–01125, at 38–39 (CIT August 29, 1997), the Court noted in *DuPont I* that the focus of the analysis is on whether the consolidated group's controlling entity has the power to determine the capital structure of each member of the group. The Court

concluded that the administrative record in prior reviews was supported by the Department's finding that Akzo Nobel N.V. was a controlling entity. In *DuPont II,* the CIT adopted its reasoning from *DuPont I* and again sustained the Department's determination on this issue in the second administrative review.

In the instant administrative review, petitioner reiterates its position argued in the previous three reviews but does not point to any new evidence in the administrative record, which would demonstrate that the parent, Akzo Nobel N.V., does not exercise corporate control over the respondent company. Thus, consistent with the Department's prior determinations and the CIT's decisions in *DuPont I* and *DuPont II,* we are using Akzo Nobel N.V.''s consolidated financial interest expense in computing the respondent's net interest ratio.

Similarly, petitioner's contention that we should revise Akzo's reported U.S. indirect selling expense lacks merit. As the Department stated in the prior administrative reviews, the Department bases its calculations on the consolidated financial statements of the parent, not the subsidiary when calculating the financial interest expense. This method is grounded in a well-established practice. *See Final Aramid Fiber I* at 51407 and *Final Aramid Fiber II* at 38060. As stated above, the focal point of the analysis is upon the parent company's control over the subsidiary. *See also, Final Administrative Review: Porcelain-on-Steel Cooking Ware from Mexico,* 58 FR 32095 at comment 9 (indicating the parent has the power to decide the composition of the subsidiary's capital structure (*i.e.,* to what extent the subsidiary will be financed by debt and equity)). More importantly, the petitioner has failed to produce any evidence to rebut the *prima facie* evidence of Akzo's control over ANAPI. For the reasons stated above, we are adhering to the Department's current practice in this final determination.

Comment 2: Treatment of Goodwill Expenses. Petitioner contends that Akzo's reported cost of production fails to include an amount for amortized goodwill expenses that should be added to Akzo's general expenses. Moreover, the petitioner argues that the Department's treatment of Akzo's goodwill expenses in the first, second and third administrative reviews is not supported by substantial evidence on the record and is contrary to law, which requires the calculation of actual costs attributable to the production of the subject merchandise. Petitioner argues that the Department should amortize these costs over a period that covers the POR to avoid improperly understating the actual cost of producing PPD–T aramid fiber during the POR.

Akzo argues that petitioner's position is unsubstantiated and contrary to law. Akzo notes that the proper treatment of the goodwill expense was the focus of the first administrative review and was addressed by the CIT in *DuPont I* and *DuPont II.* Respondent further notes that the Department spent a significant amount of time gathering and analyzing all aspects of the purchase. *See Final Aramid Fiber I* at 51406. Akzo cites the CIT's rulings in *DuPont I* and *DuPont II* to affirm the Department's treatment of goodwill in the instant review. Respondent cites specifically to the CIT's approval of the Department's analysis, affirming that it was appropriate to isolate those components of goodwill that pertained to assets used in the production of subject merchandise. Akzo states that in preparing the questionnaire response for this review, it complied with the Department's determination in the first three administrative reviews. Finally, Respondent contends that no circumstances exist warranting any deviation from the Department's prior approach, as affirmed twice by the CIT.

Department's Position: The Department agrees with Akzo. As explained at length in the final results of the first, second and third administrative reviews, and affirmed by the CIT in *DuPont I* and *DuPont II,* the Department accepted Akzo's accounting method for the amortization of goodwill expense as reasonable. *See Final Aramid Fiber I* at 51406; *Final Aramid Fiber II* at 38063; and *Final Aramid Fiber III* at 37516.

The Department gathered and analyzed all aspects of the facts surrounding the goodwill issue during the first administrative review. Upon completion of its analysis, the Department determined that, for cost calculation purposes, it was appropriate to isolate those components of goodwill that pertained to assets used in the production of subject merchandise. *See Final Aramid Fiber I* at 51406. The Department verified that Akzo complied with the Department's decision in the first administrative review, and calculated the reported depreciation expenses exclusive of goodwill expenses in preparing its response for the subsequent reviews. The methodology used in the instant review is consistent with the final results of the first, second and third administrative reviews.

Moreover, in *DuPont I* and *DuPont II,* the CIT rejected petitioner's arguments with respect to goodwill, affirming the Department's treatment of inventory write-downs and residual goodwill expenses. *See DuPont I* at 15—24 and *DuPont II* at 13. Therefore, for purposes of the instant review, the Department is using Akzo's reported cost of production and constructed value data in calculating the antidumping duty margin.

Comment 3: Calculation Errors in Preliminary Results

Akzo claims that the computer program used in calculating the preliminary results contained two errors that must be corrected for the final determination. First, Akzo states that the constructed export price (''CEP'') profit ratio is based on the ratio of total revenues and costs, without regard to the unit of measure in which the sales and costs were reported. Akzo argues that by dividing the total home market revenue (''TOTREVH'') and the individual components of the total home market expenses (*i.e.,* cost of goods sold (''TOTCOGSH''), selling expenses (''TOTSELLH''), and movement expenses (''TOTMOVEH'')) by 2.2046 (conversion of kilograms to pounds), the Department incorrectly cut the revenue and expenses by more than half. Akzo contends that this error minimized the contribution of home market sales in the calculation of the CEP profit and resulted in an overstatement of the CEP profit ratio, which in turn caused a higher than appropriate deduction from the U.S. price.

Second, Akzo claims that in calculating the assessment rate, the margin program fails to specify a variable for the unit margin, thereby incorrectly calculating the first numeric variable for the amount due and overstating the assessment rate. Akzo provided suggested changes to correct the alleged errors.

Petitioner did not rebut any of Akzo's aforementioned suggested corrections.

Department's Position: The Department agrees with Akzo and has revised the final margin program to reflect the appropriate changes. We have reviewed our calculations and agree that we made an unintentional error when we divided the fields TOTREVH, TOTCOGSH, TOTSELLH, and TOTMOVEH by 2.2046, for purposes of calculating the CEP profit ratio. Concerning the second issue, we have reexamined our calculations, and agree with Akzo's observations. We found that the assessment rate was inappropriately calculated and, therefore, we inserted the proper variable name in the margin program to sum the amount due.

Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists:

Weighted-average	Exporter/ manufacturer margin (percent)
Akzo	2.90

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service. Because we have only one importer of the subject merchandise, we have calculated an importer specific duty assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of sales examined.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of PPD–T aramid fiber from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) if the exporter is not a firm covered in this review, a prior review, or the original Less Than Fair Value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 66.92 percent, the ''all others'' rate established in the LTFV investigation (59 FR 32678, June 24, 1994). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 and 19 CFR 351.306. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act and 19 CFR 351.221.

Dated: November 5, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29749 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–806]

Carbon Steel Wire Rope from Mexico: Extension of Time Limit for Preliminary Results of New Shipper Antidumping Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of new shipper antidumping review.

EFFECTIVE DATE: November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0666 or (202) 482–3020, respectively.

SUPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 351 (1998).

Background

On March 31, 1999, the Department of Commerce (the Department) received a request from Cablesa, S.A. de C.V. (Cablesa) for a new shipper review of its sales to the United States of merchandise subject to the antidumping duty order on carbon steel wire rope from Mexico. We initiated the review, which covers the period March 1, 1998 through February 28, 1999, on April 30, 1999 (*Carbon Steel Wire Rope From Mexico: Initiation of New Shipper Antidumping Duty Review,* 64 FR 24573 (published May 7, 1999)).

On March 29, 1999 and March 31, 1999, in accordance with 19 CFR 351.213(b)(1) and (2), the Department received requests from Aceros Camesa, S.A. de C.V. (Camesa), and the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, respectively, to conduct an administrative review of Camesa's sales to the United States of merchandise subject to the antidumping duty order on carbon steel wire rope from Mexico. The administrative review covers the period March 1, 1998 through February 28, 1999, and was initiated on April 22, 1999 (64 FR 23269, published April 30, 1999).

Postponement of Results of New Shipper Review

On July 29, 1999, Cablesa submitted a waiver of the normal time limits for a new shipper review, as set forth in 19 CFR 351.214(i). Thus, in accordance with 19 CFR 351.214(j)(3), we are conducting this new shipper review concurrently with the ongoing administrative review of carbon steel wire rope from Mexico. The signature date for preliminary results of review is now December 1, 1999.

Dated: October 27, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 99–29748 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–854, A–560–807, A–583–834, A–489–808]

Notice of Postponement of Preliminary Antidumping Duty Determinations: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Indonesia, the People's Republic of China, Taiwan and Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 15, 1999.

FOR FURTHER INFORMATION CONTACT: LaVonne Jackson and James Kemp, Office V, DAS Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–3003 or (202) 482–1276, respectively.

Postponement of Preliminary Determinations

The Department of Commerce (''the Department'') is postponing the preliminary determinations in the antidumping duty investigations of cold-rolled flat-rolled carbon-quality steel products from Indonesia, the People's Republic of China, Taiwan and Turkey. The deadline for issuing the preliminary determinations in these investigations is now December 8, 1999.

On June 21, 1999, the Department initiated antidumping investigations of cold-rolled flat-rolled carbon-quality steel products from Indonesia, the People's Republic of China, Taiwan and Turkey. *See Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Argentina, Brazil, the People's Republic of China, Indonesia, Japan, the Russian Federation, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela*, 64 FR 34194. The notice stated that the Department would issue its preliminary determinations no later than 140 days after the date of initiation (*i.e.*, November 8, 1999). On October 19, 1999, the Department postponed the date of the preliminary determination in the case involving Slovakia. *See Notice of Postponement of Preliminary Antidumping Duty Determination: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Slovakia*, 64 FR 57842 (October 27, 1999). The Department issued preliminary determinations in the cases involving Argentina, Brazil, Japan, the Russian Federation, South Africa, Thailand and Venezuela on November 1, 1999.

The Department has now concluded, consistent with section 733(c)(1)(B) of the Act, that the four cases at issue here are extraordinarily complicated, and that additional time is necessary to issue the preliminary determinations, due to (a) the complexity of the issues raised in these cases, requiring the issuance of multiple supplemental questionnaires, (b) the inherent difficulty of coordinating the analysis of cross-cutting issues for several related antidumping investigations, (c) the need to allow additional time for respondents in Taiwan and Turkey to respond to our questionnaires resulting from the recent natural disasters in those countries, and (d) an electrical fire at the Department's main building and technical problems, which rendered the Import Administration computer network inoperative for one week. Therefore, in light of the fact that parties to this proceeding have been cooperating, pursuant to section 733(c)(1) of the Act, the Department is postponing the deadline for issuing these determinations until December 8, 1999.

This extension is in accordance with section 733(c) of the Act and 19 CFR 351.205(b)(2).

Dated: November 5, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29750 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–307–815

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC, 20230; telephone: (202) 482–0193 or (202) 482–3833, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR Part 351, (April, 1999).

Preliminary Determination

We preliminarily determine that cold-rolled flat-rolled carbon-quality steel products (cold-rolled steel products) from Venezuela are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margin of sales at LTFV is shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On June 21, 1999, the Department initiated antidumping duty investigations of imports of certain cold-rolled flat-rolled carbon-quality steel products from Argentina, Brazil, the People's Republic of China, Indonesia, Japan, the Russian Federation, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela. *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products*, 64 FR 34194 (June 25, 1999) (*Initiation Notice*). Since the initiation of this investigation, the following events have occurred:

On June 21, 1999, the Department invited interested parties to submit comments on the proposed model match criteria. On June 28, 1999, Bethlehem Steel Corporation, Gulf States Steel, Inc., Ispat Inland, Inc., LTV Steel Company, Inc., National Steel Corporation, Steel Dynamics, Inc., U.S. Steel Group, a unit of USX Corporation, Weirton Steel Corporation, and United Steelworkers of America (collectively, ''petitioners'') stated that we should revise the category ''annealing'' to account more precisely for important differences in processing, pricing, functions, and customer expectations. In addition, petitioners recommended that the Department include an additional category under ''QUALITY,'' for motor lamination steels. On June 22, 1999, the Department issued Section A of the antidumping duty questionnaire to Sidor, the only known exporter of subject merchandise in Venezuela. On July 9, 1999, the Department issued Sections B through E to Sidor. On July 16, 1999, the United States International Trade Commission (ITC) notified the Department of its affirmative preliminary injury determination in this case. The Department received Sidor's response to Section A of the questionnaire on July 20, 1999. Petitioners filed comments on Sidor's response to Section A on August 3, 1999. The Department issued a supplemental questionnaire for Section A on August 24, 1999 in order to clarify and/or correct the information and data submitted in the original questionnaire. Sidor failed to respond to Sections B through D of the questionnaire and the Department's supplemental questionnaire for Section A.

The Department set aside a period for all interested parties to raise issues regarding product coverage. From July through October 1999, the Department

received responses from a number of parties including importers, respondents, consumers, and petitioners, aimed at clarifying the scope of the investigation. *See* Memorandum to Joseph A. Spetrini, November 1, 1999 (Scope Memorandum) for a list of all persons submitting comments and a discussion of all scope comments. There are several scope exclusion requests for products which are currently covered by the scope of this investigation that are still under consideration by the Department. These items are considered to be within the scope for this preliminary determination; however, these requests will be reconsidered for the final determination. See Scope Memorandum.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products, neither clad, plated, nor coated with metal, but whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances, both in coils, 0.5 inch wide or wider, (whether or not in successively superimposed layers and/or otherwise coiled, such as spirally oscillated coils), and also in straight lengths, which, if less than 4.75 mm in thickness having a width that is 0.5 inch or greater and that measures at least 10 times the thickness; or, if of a thickness of 4.75 mm or more, having a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (''IF'')) steels, high strength low alloy (''HSLA'') steels, and motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedules of the United States (''HTSUS''), are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight, and; (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium (also called columbium), or
0.15 percent of vanadium, or
0.15 percent of zirconium

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- SAE grades (formerly also called AISI grades) above 2300;
- Ball bearing steels, as defined in the HTSUS;
- Tool steels, as defined in the HTSUS;
- Silico-manganese steel, as defined in the HTSUS;
- Silicon-electrical steels, as defined in the HTSUS, that are grain-oriented;
- Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level exceeding 2.25 percent;
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507);
- Silicon-electrical steels, as defined in the HTSUS, that are not grain-oriented and that have a silicon level less than 2.25 percent, and

(a) fully-processed, with a core loss of less than 0.14 watts/pound per mil (.001 inches), or

(b) semi-processed, with core loss of less than 0.085 watts/pound per mil (.001 inches);

- Certain shadow mask steel, which is aluminum killed cold-rolled steel coil that is open coil annealed, has an ultra-flat, isotropic surface, and which meets the following characteristics:

Thickness: 0.001 to 0.010 inches
Width: 15 to 32 inches

CHEMICAL COMPOSITION:

Element	C
Weight %	< 0.002%

- Certain flapper valve steel, which is hardened and tempered, surface polished, and which meets the following characteristics:

Thickness: ≤1.0 mm

Width: ≤152.4 mm

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S
Weight %	0.90–1.05	0.15–0.35	0.30–0.50	≤ 0.03	≤ 0.006

MECHANICAL PROPERTIES

Tensile Strength	≥ 162 Kgf/mm^2.
Hardness	≥ 475 Vickers hardness number.

PHYSICAL PROPERTIES

Flatness	< 0.2% of nominal strip width.

Microstructure: Completely free from decarburization. Carbides are spheroidal and fine within 1% to 4% (area percentage) and are undissolved in the uniform tempered martensite.

NON-METALLIC INCLUSION

	Area percentage
Sulfide Inclusion	≤ 0.04
Oxide Inclusion	≤ 0.05

Compressive Stress: 10 to 40 Kgf/mm ^{2}

SURFACE ROUGHNESS

Thickness (mm)	Roughness (μm)
t ≤ 0.209	Rz ≤ 0.5
0.209 < t ≤ 0.310	Rz ≤ 0.6
0.310 < t ≤ 0.440	Rz ≤ 0.7
0.440 < t ≤ 0.560	Rz ≤ 0.8
0.560 < t	Rz ≤ 1.0

• Certain ultra thin gauge steel strip, which meets the following characteristics:
Thickness: ≤ 0.100 mm +/−7%.
Width: 100 to 600 mm.

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Al	Fe
Weight %	≤ 0.07	0.2-0.5	≤ 0.05	≤ 0.05	≤ 0.07	Balance

MECHANICAL PROPERTIES

Hardness	Full Hard (Hv 180 minimum).
Total Elongation	< 3%
Tensile Strength	600 to 850 N/mm ^{2}

PHYSICAL PROPERTIES

Surface Finish	≤ 0.3 micron.
Camber (in 2.0 m)	< 3.0 mm.
Flatness (in 2.0 m)	≤ 0.5 mm.
Edge Burr	< 0.01 mm greater than thickness.
Coil Set (in 1.0 m)	< 75.0 mm.

• Certain silicon steel, which meets the following characteristics:
Thickness: 0.024 inches +/−.0015 inches.
Width: 33 to 45.5 inches.

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al
Min. Weight%					0.65	
Max. Weight %	0.004	0.4	0.09	0.009		0.4.

MECHANICAL PROPERTIES

Hardness	B 60–75 (AIM 65).

PHYSICAL PROPERTIES

Finish	Smooth (30—60 microinches).
Gamma Crown (in 5 inches)	0.0005 inches, start measuring ¼ inch from slit edge.

PHYSICAL PROPERTIES—Continued

Flatness	20 I–UNIT max.
Coating	C3A–.08A max. (A2 coating acceptable).
Camber (in any 10 feet)	1/16 inch.
Coil Size I.D	20 inches.

MAGNETIC PROPERTIES

Core Loss (1.5T/60 Hz) NAAS	3.8 Watts/Pound max.
Permeability (1.5T/60 Hz) NAAS	1700 gauss/oersted typical 1500 minimum.

• Certain aperture mask steel, which has an ultra-flat surface flatness and which meets the following characteristics:
Thickness: 0.025 to 0.245 mm.
Width: 381—1000 mm.

CHEMICAL COMPOSITION

Element	C	N	Al
Weight %	< 0.01	0.004 to 0.007	< 0.007

• Certain tin mill black plate, annealed and temper-rolled, continuously cast, which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight %	0.02	0.20				0.03			.....	0.003
Max. Weight %	0.06	0.40	0.02	0.023 (Aiming 0.018 Max.)	0.03	0.08 (Aiming 0.05)	0.02	0.08	.....	0.008 (Aiming 0.005)

Non-metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides > 1 micron (0.000039 inches) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inches) in length.

Surface Treatment as follows: The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating.

SURFACE FINISH

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Extra Bright	5(0.1)	0(0)	7(0.2)

• Certain full hard tin mill black plate, continuously cast, which meets the following characteristics:

CHEMICAL COMPOSITION

Element	C	Mn	P	S	Si	Al	As	Cu	B	N
Min. Weight %	0.02	0.20				0.03			.....	0.003
Max. Weight %	0.06	0.40	0.02	0.023 (Aiming 0.018 Max.)	0.03	0.08 (Aiming 0.05)	0.02	0.08	.....	0.008 (Aiming 0.005)

Non-metallic Inclusions: Examination with the S.E.M. shall not reveal individual oxides > 1 micron (0.000039 inches) and inclusion groups or clusters shall not exceed 5 microns (0.000197 inches) in length.

Surface Treatment as follows: The surface finish shall be free of defects (digs, scratches, pits, gouges, slivers, etc.) and suitable for nickel plating.

SURFACE FINISH

	Roughness, RA Microinches (Micrometers)		
	Aim	Min.	Max.
Stone Finish	16(0.4)	8(0.2)	24(0.6)

• Certain ''blued steel'' coil (also know as ''steamed blue steel'' or ''blue oxide'') with a thickness and size of 0.38 mm x 940 mm x coil, and with a bright finish;

• Certain cold-rolled steel sheet, which meets the following characteristics:

Thickness (nominal): ≤ 0.019 inches
Width: 35 to 60 inches

CHEMICAL COMPOSITION

Element	C	O	B
Max. Weight %	0.004		
Min. Weight %		0.010	0.012

• Certain band saw steel, which meets the following characteristics: Thickness: ≤ 1.31 mm. Width: ≤ 80 mm.

CHEMICAL COMPOSITION

Element	C	Si	Mn	P	S	Cr	Ni
Weight %	1.2 to 1.3	0.15 to 0.35	0.20 to 0.35	≤ 0.03	≤ 0.007	0.3 to 0.5	≤ 0.25

Other properties:

Carbide: fully spheroidized having > 80% of carbides, which are ≤ 0.003 mm and uniformly dispersed.

Surface finish: bright finish free from pits, scratches, rust, cracks, or seams.

Smooth edges:

Edge camber (in each 300 mm of length): ≤ 7 mm arc height.

Cross bow (per inch of width): 0.015 mm max.

The merchandise subject to this investigation is typically classified in the HTSUS at subheadings: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2550, 7209.18.6000. 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.19.0000, 7225.50.6000, 7225.50.7000, 7225.50.8010, 7225.50.8085, 7225.99.0090, 7226.19.1000, 7226.19.9000, 7226.92.5000, 7226.92.7050, 7226.92.8050, and 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (''U.S. Customs'') purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of this investigation (POI) is April 1, 1998 through March 31, 1999.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner, or in the form requested, significantly impedes a proceeding under the antidumping statute, or provides information that cannot be verified, the Department shall, subject to subsections 782(c)(1) and (e) of the Act, use facts otherwise available in reaching the applicable determination. Because Sidor failed to provide Section B (home market sales), Section C (U.S. sales), and Section D (cost of production) information, we must base its margin entirely on the facts otherwise available.

Sidor submitted a response to Section A of the Department's questionnaire, but did not respond to Section B through D of the questionnaire in a timely manner. We note that although Sidor requested additional time to respond to these sections of our questionnaire, this request was denied because it was made after the deadline for response had already passed. *See* ''Letter to the Secretary of Commerce from Counsel for Sidor'', August 31, 1999 and ''Letter to Counsel for Sidor from the Department of Commerce'', September 3, 1999. In addition, Sidor failed to respond to the Department's supplemental Section A questionnaire of August 24, 1999. Because Sidor failed to respond to the required sections of the antidumping duty questionnaire, the Department finds the company has significantly impeded this investigation. Consequently, under sections 776(a)(2)(B) and (C) of the Act, the Department must use facts otherwise available in making its determination.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See also Statement of Administrative Action* (SAA) accompanying the URAA, H.R. Rep. No. 316, 103d Cong, 2d Sess. at 870 (1994). Such adverse inference may include reliance on information derived from the petition. To determine whether the respondent ''cooperated'' by ''acting to the best of its ability'' under section 776(b), the Department considers, among other facts, the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes from Thailand; Final Results of Antidumping Duty Administrative Review,* 62 FR 53808, 53819–53820, (October 16, 1997); *Brass Sheet and Strip from Germany; Final Results of Antidumping Duty Administrative Review,* 63 FR 42823–42824 (August 11, 1998).

Sidor's complete refusal to reply to the Department's requests for home market and U.S. sales information and cost of production information demonstrates that Sidor has failed to act to the best of its ability in this investigation. Thus, the Department has determined that, in selecting among the facts otherwise available, an adverse inference is warranted with regard to Sidor. Consistent with Department practice in cases in which a respondent fails to cooperate to the best of its ability by refusing to respond to entire sections of the questionnaire, and pursuant to section 776(b)(1) of the Act, as facts available we have applied a margin based on the highest margin alleged in the petition. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars From Turkey,* 62 FR 9737–9738 (March 4, 1997).

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. Secondary

information is described in the SAA (at 870) as ''[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.''

The SAA further provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. Thus, to corroborate secondary information, to the extent practicable, the Department will examine the reliability and relevance of the information used.

During the Department's pre-initiation analysis of the petition, we reviewed the adequacy and accuracy of the information in the petition, to the extent appropriate information was available for this purpose (*e.g.*, import statistics, foreign market research reports, and data from U.S. producers). *See Notice of Initiation* and ''Import Administration AD Investigation Initiation Checklist,'' (June 21, 1999). The estimated dumping margins of the petitioners were based on two price quotes from trading companies for sales to unaffiliated U.S. purchasers and import values declared to the U.S. Customs compared to two high and low ex-factory prices obtained from market research consultants. The Department determined the adequacy and accuracy of the information from which the petition margin was calculated by reviewing all of the data presented and by requesting clarification and confirmation from petitioners and their sources as needed. *See* Attachment B to the Initiation Checklist and *Memorandum to the File: Telephone Conversation with Market Research Firm Regarding the Petition for the Imposition of Antidumping Duties* (June 21, 1999). In addition, for purposes of this preliminary determination, the Department compared the export prices alleged by petitioners, based on price quotations obtained from trading companies, for sales to unaffiliated first purchasers with the average unit values of U.S. imports classified under the appropriate HTS number during the same months as the U.S. sales.

We noted that the U.S. price quotes of the per unit values of the subject merchandise derived by petitioners were well within the range of the average unit values reported by U.S. Customs. U.S. official import statistics are sources which we consider to require no further corroboration by the Department. *See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From the People's Republic of China,* 62 FR 51410, 51412 (October 1, 1997). The Department was provided no information by the respondents or other interested parties, and is aware of no other independent sources of information that would enable it to corroborate home market prices further for this preliminary determination. The implementing regulation to section 776 of the Act, at 19 CFR 351.308(d), states ''[t]he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' We note also that the SAA at 870 specifically states that, where ''corroboration may not be practicable in a given circumstance'', the Department may nevertheless apply an adverse inference. Based on the above, we find that the estimated margins set forth in the petition have probative value.

The All-Others Rate

The foreign manufacturer/exporter in this investigation is being assigned a dumping margin on the basis of facts otherwise available. Section 735(c)(5) of the Act provides that, where the dumping margins established for all exporters and producers individually investigated are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including weight averaging the zero, *de minimis,* and the margins based on facts available. *See also* SAA at 873. In this case, the margin assigned to the only company investigated is based on adverse facts available. Therefore, consistent with the statute and the SAA, we are using an alternative method. As our alternative, we are basing the all others rate on a simple average of the margins in the petition. As a result, the all others rate is 42.93 percent.

Critical Circumstances

On June 10, 1999, the petitioners made a timely allegation that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of subject merchandise from Venezuela. According to section 733(e)(1) of the Act, if critical circumstances are alleged under section 733(e) of the Act, the Department must examine whether there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports during the ''relatively short period'' described in section 351.206(i) of over 15 percent may be considered ''massive.'' Section 351.206(i) of the Department's regulations defines ''relatively short period'' normally as the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.

Because we are not aware of any antidumping order in any country on cold-rolled steel products from Venezuela, we find that there is no reasonable basis to believe or suspect that there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise. Therefore, we must look to whether there was importer knowledge under section 733(e)(1)(A)(ii).

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling the cold-rolled steel at less than fair value, the Department's normal practice is to consider EP sales margins of 25 percent or more sufficient to impute knowledge of dumping. *See Brake and Brake Rotors From the People's Republic of China,* 62 FR 9160, 9164 (February 28, 1997). As discussed above, we have applied, as adverse facts available for Sidor, the highest of the dumping margins presented in the petition and corroborated by the Department. Because this margin is in excess of 25 percent, we impute knowledge of dumping in regard to exports by Sidor. *See Stainless Steel Sheet and Strip in Coils from Japan,* 64 FR 30574 (June 8, 1999).

Moreover, in determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, the Department may look to the

preliminary injury determination of the ITC. *See Brake and Brake Rotors from the PRC,* 62 FR at 9164. If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department normally determines that a reasonable basis exists to impute importer knowledge that there was likely to be material injury by reason of dumped imports. *See Id.* The ITC has found that a reasonable indication of present material injury exists in regard to Venezuela. *See ITC Preliminary Determination.* As a result, the Department has determined that there is a reasonable basis to believe or suspect that importers knew or should have known that there was likely to be material injury by reason of dumped imports from Sidor.

In determining whether there are ''massive imports'' over a ''relatively short period,'' the Department ordinarily bases its analysis on import data for at least the three months preceding (the ''base period'') and following (the ''comparison period'') the filing of the petition. See 19 CFR 351.206(i). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period. See 19 CFR 351.206(h). However, as stated in the Department's regulations, at section 351.206(i), if the Secretary finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a period of not less than three months from that earlier time.

Because Sidor did not respond fully to our antidumping questionnaire, we must base our determination regarding massive imports on the facts available. In this case, Sidor is the only known producer and exporter of subject merchandise from Venezuela, and U.S. Census data are reasonably specific to exports of subject merchandise from Venezuela. Therefore, we have determined that it is reasonable to use these data as facts available in this case.

In the present case, petitioners argue that importers, exporters, or producers of cold-rolled steel had reason to believe that, based on press reports, an antidumping proceeding was likely long before the filing of the petition. To determine whether, prior to the filing of the petition, there was reason to believe that a proceeding was likely, the Department examined press reports in late 1998 regarding rising imports and the likelihood of anti-dumping actions against imports of cold-rolled steel to the United States. Press reports established that by the beginning of November 1998, importers, exporters, or producers knew or should have known that a proceeding was likely concerning cold-rolled products from South America (*see Journal of Commerce,* November 4, 1998). Because Venezuela is a major South American producer of cold-rolled steel, we find such press reports sufficient to establish that, as of November 1998, importers, exporters or producers from Venezuela knew or should have known that a proceeding was likely concerning cold-rolled products from Venezuela. Thus, the Department has determined that it is appropriate to compare imports before and after November 1998 in our examination of whether there were massive imports, rather than compare imports before and after the date the petition was filed. The Department compared the import volumes from January–October 1998 to November 1998–August 1999, the maximum period for which we had reliable data in this case, and found that U.S. Census data shows more than a 100 percent increase in imports of subject merchandise from Venezuela during this period. Thus, U.S. Census data indicate that imports from Venezuela, and thus imports from Sidor, the only known producer/exporter of subject merchandise in Venezuela, were far above the minimum level normally considered ''massive'' by the Department. Therefore, pursuant to section 733(e) of the Act and section 351.206(h) of the Department's regulations, we preliminarily determine that there have been massive imports of cold-rolled steel from Sidor over a relatively short period of time. Accordingly, consistent with Department practice, we have determined that critical circumstances exist for Sidor.

All Others

It is the Department's normal practice to conduct its critical circumstances analysis of companies in the ''all others'' group based on the experience of investigated companies. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey (Rebars from Turkey),* 62 FR 9737, 9741 (March 4, 1997) (the Department found that critical circumstances existed for the majority of the companies investigated, and therefore concluded that critical circumstances also existed for companies covered by the ''all others'' rate). Where the dumping margins for all investigated respondents are based entirely on adverse facts available, however, the Department does not automatically extend an affirmative critical circumstances determination to companies covered by the ''all others'' rate. *See Stainless Steel Sheet from Japan,* 64 FR 30574 (June 8, 1999). Instead, the Department considers the traditional critical circumstances criteria with respect to the companies covered by the ''all others'' rate.

Consistent with *Stainless Steel from Japan,* the Department has, in this case, applied the traditional critical circumstances criteria to the ''all others'' category for the antidumping investigation of cold rolled steel from Venezuela. First, the dumping margin for the ''all others'' category, 42.93 percent (*see Suspension of Liquidation,* below), exceeds the 25 percent threshold necessary to impute knowledge of dumping. Second, based on the ITC's preliminary material injury determination, we also find that importers knew or should have known that there would be material injury from sales of the dumped merchandise by respondents other than Sidor.

However, the Department, in selecting the facts available, has not made an adverse inference that there are massive imports for the ''all others'' category in the Venezuela investigation. Since Sidor, the mandatory respondent, is currently the only known exporter of cold-rolled steel in Venezuela, we have determined that the information available indicates no massive imports for the ''all others'' category. As a result, because the massive imports criterion necessary to find critical circumstances has not been met with respect to firms other than Sidor, the Department finds that critical circumstances do not exist for the ''all others'' category in the Venezuelan investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing U.S. Customs to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. In addition, for Sidor, we are directing U.S. Customs to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the date of publication of this notice. We will instruct U.S. Customs to require a cash deposit or the posting of a bond equal to the percentage margin, as indicated in the chart below. These suspension-of-liquidation instructions will remain in

effect until further notice. The dumping margin is as follows:

Producer/manufacture exporter	Weighted-average margin (percent)
Sidor	56.37
All Others	42.93

The all others rate, which we derived from the average of the margins calculated in the petition, applies to all entries of subject merchandise other than those exported by the named respondent.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury, to the U.S. industry. The deadline for the ITC determination is the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than fifty days after the publication of this notice in the **Federal Register**. Rebuttal briefs must be filed no later than fifty-five days after the publication of this notice in the **Federal Register**. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such a summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If this investigation proceeds normally, we will make our final determination within 75 days after the date of this preliminary determination.

This determination is issued and published in accordance with sections 733(d) and 777(i)(1) of the Act.

Dated: November 1, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29762 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China; Initiation of New Shipper Antidumping Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of new shipper antidumping reviews.

SUMMARY: The Department of Commerce (the Department) has received requests from Yixing Ban Chang Foods Co., Ltd. (Yixing), Fujian Pelagic Fishery Group Company (Fujian Pelagic), Yangzhou Lakebest Foods Co., Ltd. (Lakebest), Suqian Foreign Trade Co., Ltd. (Suqian), Qingdao Zhengri Seafood Co., Ltd. (Qingdao Zhengri), and Shantou SEZ Yangfeng Marine Products Company (Yangfeng) to conduct new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from The People's Republic of China (PRC). In accordance with the Department's current regulations, we are initiating these new shipper reviews.

EFFECTIVE DATE: November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0648 or (202) 482–3020, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 351 (1998).

Background

On September 19, 1999, and September 30, 1999, the Department received timely requests, in accordance with section 751(a)(2)(B)(ii) of the Act, and section 351.214(c) of the Department's regulations, for new shipper reviews of this antidumping duty order which has a September anniversary date.

Initiation of Reviews

In its September 19, 1999, request for review, Yixing certified that it did not export the subject merchandise to the United States during the period of investigation (POI) and that it is not affiliated with any company which exported subject merchandise to the United States during the POI, as required by 19 CFR 351.214(b)(2)(i) and (iii)(A). Yixing further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), Yixing submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the volume of that first shipment, and the date of its first sale to an unaffiliated customer in the United States.

In its September 30, 1999 request for review, Fujian Pelagic certified that it did not export the subject merchandise to the United States during the POI and that it is not affiliated with any company which exported subject merchandise to the United States during the POI, as required by 19 CFR 351.214(b)(2)(i) and (iii)(A). Fujian Pelagic further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 315.214(b)(2)(iv), Fujian Pelagic submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the volume of that first shipment, and the date of its first sale to an unaffiliated customer in the United States. In addition, Fujian Pelagic submitted a statement from Fujian Hualong Aquatic Trade Development Company Lianjiang Aquatic Processing

Factory (Lianjiang Aquatic), the producer/supplier of subject merchandise to Fujian Pelagic. In that statement, Lianjiang Aquatic certified that it did not export subject merchandise during the POI and that it is not affiliated with any exporter or producer who exported subject merchandise during the POI as required by Department regulation 19 CFR 351.214(b)(2)(ii)(B). Lianjiang Aquatic further certified that its export activities are not controlled by the government of the PRC pursuant to Department regulation 19 CFR 351.214(b)(2)(iii)(B).

In its September 30, 1999 request for review, Lakebest certified that it did not export the subject merchandise to the United States during the POI and that it is not affiliated with any company which exported subject merchandise to the United States during the POI, as required by 19 CFR 351.214(b)(2)(i) and (iii)(A). Lakebest further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), Lakebest submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the volume of that first shipment, and the date of its first sale to an unaffiliated customer in the United States.

In its September 30, 1999 request for review, Suqian certified that it did not export the subject merchandise to the United States during the POI and that it is not affiliated with any company which exported subject merchandise to the United States during the POI, as required by 19 CFR 351.214(b)(2)(i) and (iii)(A). Suqian further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), Suqian submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the volume of that first shipment, and the date of its first sale to an unaffiliated customer in the United States. In addition, Suqian submitted a statement from Suyang Shuangyu Food Co., Ltd. (Shuangyu), the producer/supplier of subject merchandise to Suqian. In that statement, Shuangyu certified that it did not export subject merchandise during the POI and that it is not affiliated with any exporter or producer who exported subject merchandise during the POI as required by Department regulation 19 CFR 351.214(b)(2)(ii)(B). Shuangyu further certified that its export activities are not controlled by the government of the PRC pursuant to Department regulation 19 CFR 351.214(b)(2)(iii)(B).

In its September 30, 1999 request for review, Qingdao Zhengri certified that it did not export the subject merchandise to the United States during the POI and that it is not affiliated with any company which exported subject merchandise to the United States during the POI, as required by 19 CFR 351.214(b)(2)(i) and (iii)(A). Qingdao Zhengri further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), Qingdao Zhengri submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the volume of that first shipment, and the date of its first sale to an unaffiliated customer in the United States.

In its September 30, 1999 request for review, Yangfeng certified that it did not export the subject merchandise to the United States during the POI and that it is not affiliated with any company which exported subject merchandise to the United States during the POI, as required by 19 CFR 351.214(b)(2)(i) and (iii)(A). Yangfeng further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), Yangfeng submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the volume of that first shipment, and the date of its first sale to an unaffiliated customer in the United States.

It is the Department's usual practice in cases involving non-market economies to require that companies seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide *de jure* and *de facto* evidence of an absence of government control over the company's export activities. Accordingly, we will issue a separate rates questionnaire to the above-named respondents, allowing 37 days for response. If a respondent's response provides sufficient indication that it is not subject to either *de jure* or *de facto* government control with respect to its exports of crawfish, the review of its crawfish exports will proceed. If, on the other hand, a respondent does not demonstrate its eligibility for a separate rate, then that respondent will be deemed to be affiliated with other companies that exported during the POI and that did not establish entitlement to a separate rate, and its review will be terminated.

In accordance with section 751(a)(2)(B) and 19 CFR 351.214(d), we are initiating new shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the PRC. In accordance with 19 CFR 351.214(i)(1), the Department will issue the preliminary results of these reviews not later than 180 days from the date of initiation.

In accordance with section 351.214(g)(1)(i)(A) of the Department's regulations, the period of review (POR) for a new shipper review initiated in the month immediately following the annual anniversary month is the twelve-month period preceding the anniversary month. Therefore, the POR for these new shippers is September 1, 1998, through August 31, 1999.

Concurrent with publication of this notice and in accordance with 19 CFR 351.214(e), we will instruct the U.S. Customs Service to allow, at the option of the importers, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the companies listed above, until the completion of the reviews.

The interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214.

Dated: November 1, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary for AD/CVD Enforcement III.

[FR Doc. 99–29755 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Initiation of New Shipper Antidumping Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of new shipper antidumping review.

SUMMARY: The Department of Commerce (the Department) has received a request from Nantong Dongchang Chemical Industry Corp. (Nantong Dongchang) to conduct a new shipper review of the

antidumping duty order on glycine from the People's Republic of China (PRC), which has a March anniversary date. In accordance with the Department's regulations, we are initiating this new shipper review.

EFFECTIVE DATE: November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew Nulman or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–4052 or (202) 482–3020, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR Part 351 (April, 1998).

Background

On September 30, 1999, the Department received a timely request, in accordance with section 751(a)(2)(B) of the Act and section 351.214(c) of the Department's regulations, for a new shipper review of the antidumping duty order on glycine, issued on March 29, 1995.

Initiation of Review

In its request of September 30, 1999, Nantong Dongchang, as required by 19 CFR 351.214(b)(2)(i) and (b)(2)(iii)(A), certified that it did not export the subject merchandise to the United States during the period of investigation (POI) (February 1, 1994 through July 31, 1994), and that since the investigation was initiated on July 28, 1994, it has not been affiliated with any company which exported subject merchandise to the United States during the POI. Nantong Dongchang further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), Nantong Dongchang submitted documentation establishing the date on which the subject merchandise was first entered for consumption into the United States, the volume of that first shipment, and the date of its first sale to an unaffiliated customer in the United States.

It is the Department's usual practice in cases involving non-market economies to require that companies seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide *de jure* and *de facto* evidence of an absence of government control over the company's export activities. Accordingly we will issue a separate rates questionnaire to the above-named respondent, allowing 37 days for response. If a respondent's response provides sufficient indication that it is not subject to either *de jure* or *de facto* government control with respect to its exports of crawfish, the review of its crawfish exports will proceed. If, on the other hand, a respondent does not demonstrate its eligibility for a separate rate, then that respondent will be deemed to be affiliated with other companies that exported during the POI and that did not establish entitlement to a separate rate, and its review will be terminated.

In accordance with section 751(a)(2)(B) and 19 CFR 351.214(d), we are initiating a new shipper review of the antidumping duty order on glycine from the PRC. In accordance with 19 CFR 351.214(h)(1), we intend to issue preliminary results of this review no later than 180 days after the date of initiation.

The standard period of review (POR) in a new shipper review initiated in the month immediately following the semiannual anniversary month is the six-month period immediately preceding the semi-annual anniversary month. Therefore, the POR for this new shipper review of Nantong Dongchang is March 1, 1999 through August 30, 1999.

Concurrent with publication of this notice, and in accordance with 19 CFR 351.214(e), we will instruct the U.S. Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the company listed above, until the completion of the review.

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214.

Dated: November 1, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–29754 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–855]

Preliminary Determination of Critical Circumstances: Certain Non-Frozen Apple Juice Concentrate From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Craig Matney or Vince Kane at (202) 482–1778 or 482–2815, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1998).

Critical Circumstances

On June 28, 1999, the Department of Commerce (the Department) initiated an investigation to determine whether imports of certain non-frozen apple juice concentrate (NFAJC) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (64 FR 36330, July 6, 1999). In the petition filed on June 7, 1999, petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of NFAJC from the PRC. On July 22, 1999, the International Trade Commission (ITC) preliminarily determined that there was a reasonable grounds to believe or suspect that the domestic industry was being injured by reason of imports of NFAJC from the PRC (64 FR 40895, July 28, 1999).

In accordance with 19 CFR 351.206(c)(2)(i), because petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination. In a policy bulletin issued on October 8, 1998, the

Department stated that it has determined that it may issue a preliminary critical circumstances determination prior to the date of the preliminary determination of dumping, assuming adequate evidence of critical circumstances is available (*see Change in Policy Regarding Timing of Issuance of Critical Circumstances Determinations*, 63 FR 55364). In accordance with this policy, we are issuing a preliminary critical circumstances decision in this investigation of NFAJC imports from the PRC.

Section 733(e)(1) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

History of Dumping and Importer Knowledge

We are not aware of any antidumping order in any country on NFAJC from the PRC. Therefore, we examined whether there was importer knowledge. In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that the exporter was selling NFAJC at less than fair value and thereby causing material injury, the Department must rely on the facts before it at the time the determination is made. The Department normally considers margins of 25 percent or more for EP sales, or 15 percent or more for CEP sales, and a preliminary ITC determination of material injury sufficient to impute knowledge of dumping and the likelihood of resultant material injury.

In the present case, since we have not yet made a preliminary finding of dumping, the most reasonable source of information concerning knowledge of dumping is the petition itself. In the petition, petitioners calculated estimated dumping margins of 91.84 percent. The Department adjusted the estimated dumping margin to 51.74 percent. (*See* Antidumping Investigation Initiation Checklist dated June 28, 1999, at page 18.) Therefore, because the adjusted margin exceeds the 25 percent threshold, we preliminarily determine that importers knew or should have known that the exporters were dumping the subject merchandise.

As to the knowledge of likely injury from such dumped imports, we considered the information regarding injury to the domestic industry in the petition. We also considered other sources of information, including press reports beginning in October 1998 regarding rising imports, falling domestic prices resulting from rising imports, and domestic buyers shifting to foreign suppliers. In addition to this information, the ITC preliminarily found material injury to the domestic industry due to imports of NFAJC from the PRC. Therefore, we preliminarily find that there is a reasonable basis to believe or suspect that importers knew or should have known that material injury from the dumped merchandise was likely.

Massive Imports

In determining whether there are ''massive imports'' over a ''relatively short time period,'' the Department ordinarily bases its analysis on import data for at least the three months preceding (the base period) and following (the comparison period) the filing of the petition. Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period. However, as stated in the Department's regulations, at section 351.206(i), if the Secretary finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time.

In this case, petitioners argue that importers, exporters, or producers of NFAJC from the PRC had reason to believe that an antidumping proceeding was likely before the filing of the petition. The Department examined whether various press reports regarding the likelihood of the filing of an antidumping petition provided a sufficient basis for inferring knowledge that a proceeding was likely. Based on our examination, we find that the press reports in October 1998 are sufficient to establish that, by the end of October 1998, importers, exporters, or producers knew, or should have known, that a proceeding was likely. Accordingly, we preliminarily determine that it is more appropriate to use a comparison period starting in November 1998.

Respondents have argued the comparison supported by petitioners is distorted. In particular, they point to the nature of apple juice production in the PRC stating that during the months June—August, no apples are available and, hence, there is no juice production. Consequently, shipments during this period would be low. By way of contrast, respondents argue, the November—March period (the comparison period advanced by petitioners) represents the height of the production and shipment season.

We have reviewed the data, and based on the shipments reported by the companies that provided critical circumstances data, we agree that the levels of shipments in July and August tend to be small relative to shipments in other months. The trend of shipments in June is less clear—sometimes, relatively large shipments have occurred in that month. We also examined shipments in alleged height of the season (November—March). Again, the pattern here is not clear: shipments in April and May can be higher than shipments during months of the high production period.

Therefore, we agree with respondents that it would be distorted to compare shipments during a base period of June—October 1998 (*i.e.*, including July and August) to shipments during the November 1998—March 1999 period. To address this distortion, we have removed the July and August 1998 shipments from the amount considered to have been shipped during the base period and have added into the base period shipments during April and May 1998. In this way, we are comparing five calendar months to five calendar months. Also, because there is no consistent pattern demonstrating that inclusion of the April-June shipments distorts the base period, we believe we have addressed the production/shipment problem identified by respondents.

Based on this framework, pursuant to section 733(e) of the Act and section 351.206(h) of the Department's regulations, we preliminarily determine that there have been massive imports of NFAJC from the PRC over a relatively short time for SAAME, Lakeside, Haisheng, Andre, Nannan, and for all other exporters covered by this investigation, except Oriental and Zhonglu. For a complete discussion of our analysis, see *Memorandum to Deputy Assistant Secretary Richard W. Moreland*, dated November 3, 1999, on file in Room B–099 of the Department's headquarters.

Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, if it issues an affirmative preliminary determination of sales at less than fair value in this investigation, the Department will direct the U.S. Customs Service to suspend liquidation of all entries of NFAJC from the PRC from all exporters except Oriental and Zhonglu that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the **Federal Register** of our preliminary determination of sales at less than fair value. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins reflected in the preliminary determination of sales at less than fair value published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

Final Critical Circumstances Determination

We will make a final determination of critical circumstances when we make our final determination regarding sales at less than fair value in this investigation, which is expected to be 75 days after the preliminary determination regarding sales at less than fair value.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

This notice is published pursuant to section 777(i) of the Act.

Dated: November 3, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29751 Filed 11–12–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1997–1998 Antidumping Duty Administrative Review and Final Results of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of 1997–1998 antidumping duty administrative review and final results of new shipper review of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China.

SUMMARY: On July 8, 1999, the Department of Commerce published the preliminary results of its administrative review and partial rescission of review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China, for the period of June 1, 1997, through May 31, 1998. On August 20, 1999, the Department of Commerce published the preliminary results of its new shipper review of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China, for the period of June 1, 1998, through November 30, 1998.

We have combined in this notice the final results of both the administrative review and the new shipper review. The segments, however, continue to remain separate and distinct. Based on our analysis of comments received, we have made changes to the margin calculations. Therefore, the final results differ from the preliminary results.

We have determined that sales have been made below normal value during the period of review. Accordingly, we will instruct the Customs Service to assess antidumping duties based on the difference between export price and normal value. The final weighted-average dumping margins are listed below in the section entitled *Final Results of Review*.

EFFECTIVE DATE: November 15, 1999.

FOR FURTHER INFORMATION CONTACT: Zak Smith, James Breeden or Melani Miller, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–0189, (202) 482–1174 and (202) 482–0166, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, all references to the Department of Commerce's (''the Department's'') regulations are to 19 CFR Part 351 (April 1998).

Background

On July 8, 1999, we published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on tapered roller bearings (''TRBs'') from the People's Republic of China (''PRC''). *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of 1997–1998 Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review*, 64 FR 36853 (''*AR Preliminary Results*''). On August 20, 1999, we published the preliminary results of new shipper review of the antidumping duty order on TRBs from the PRC. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of New Shipper Review*, 64 FR 45511 (''*NSR Preliminary Results*''). We gave interested parties an opportunity to comment on our *AR* and *NSR Preliminary Results* and held a combined public hearing on October 13, 1999. The following parties submitted comments and/or rebuttals with respect to the administrative review: The Timken Company (''referred to hereafter as ''the petitioner''); Luoyang Bearing Factory (''Luoyang''); and Premier Bearing and Equipment, Ltd. (''Premier'') submitted comments with respect to the administrative review. Petitioner, Zhejiang Changshan Changhe Bearing Company (''ZCCBC'') and Weihai Machinery Holding (Group) Corporation Limited (''Weihai'') submitted comments and/or rebuttals regarding the new shipper review.

We have conducted these reviews in accordance with section 751(a) of the Act.

Scope of Review

Merchandise covered by these reviews includes TRBs and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. This merchandise is classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') item numbers 8482.20.00, 8482.91.00.50, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15, and 8708.99.80.80. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order and this review is dispositive.

Changes Since the Preliminary Results

We have made certain changes to our margin calculations pursuant to comments we received from interested

parties and clerical errors we discovered since the *AR* and *NSR Preliminary Results.*

For All Companies

Many of the changes we have made affect all companies and the comments discussing these changes are listed below.

Valuation of Certain Steel Inputs—Comment 2
Valuation of Scrap—Comment 4
Valuation of Overhead, SG&A, and Profit—Comment 13

For Premier

We have recalculated Premier's margin to apply the revised scrap and labor information submitted by one of its suppliers. See our response to Comments 18 and 19.

Analysis of Comments Received

Unless otherwise indicated, all comments apply to both the administrative review and new shipper review.

1. Valuation of Factors of Production

1(a) Material Valuation

Comment 1: Use of Indian Producer Financial Statement Data

Petitioner argues that steel costs of Indian bearing producers reported in their audited financial statements are the most accurate, narrow, and reliable information regarding the cost of bearing quality steel in India and, therefore, should be used by the Department to value bearing quality steel used in the production of certain TRB components. Petitioner states that this information is industry-specific and avoids the ''inherent inaccuracy of trade statistics covering basket categories of products.'' Petitioner notes that the Indian bearing producers' prices are comparable to the market price for grade 52100 steel (bearing-quality steel) as reported by petitioner, as well as the prices indicated in U.S. import statistics for imports from Sweden which, according to petitioner, also consist of grade 52100 steel bars. (See discussion in Comment 2, below.) Moreover, petitioner states that the availability of data from several producers ensures that the data are truly representative and do not reflect peculiar circumstances of a particular company.

The respondents argue that the Department has repeatedly recognized that the Indian producers' steel prices are inherently flawed and, thus, has refused to use these values. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results and Partial Termination of Antidumping Duty Administrative Review,* 62 FR 6173 (February 11, 1997) (''*TRBs 8*''), *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Administrative Review,* 62 FR 61276 (November 17, 1997) (''*TRBs 9*''), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1996-1997 Antidumping Administrative Review and New Shipper Review and Determination Not to Revoke Order in Part,* 63 FR 63842 (November 17, 1998) (''*TRBs 10*'').

The respondents note that the raw materials listed in the vast majority of the financial statements of the Indian producers, including SKF and FAG, are not broken down by type of steel and instead could include many different types of steel. Thus, the respondents maintain, the Department cannot discern the types of steel (*e.g.* steel bar, steel sheet, steel strip) that might be included in this category. Further, the respondents state that while Asian Bearing Company (''Asian Bearing'') provides a meaningful breakdown of its steel types, the Department has not used Asian Bearing data because of its questionable accounting practices and its designation in India as a ''sick'' company. Furthermore, according to the respondents, this single company's figure represents a ''value'' for only one company and, thus, cannot be representative of Indian steel values. The respondents also contend that the data from Tata Timken is essentially the petitioner's data, which the Department has repeatedly refused to use.

Additionally, the respondents note that even petitioner acknowledges that the Indian steel market is protected by high tariffs and that domestic prices are higher than U.S. prices, a fact which further lessens the reliability of Indian producers steel costs. Furthermore, the data from the producers' financial statements would include domestic Indian taxes and Indian import duties, information the Department has attempted to avoid.

Finally, respondents state that the Indian producer data is not verified. The respondents note that the Department has a clear preference for verifiable, public information. *See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Sulfate From the People's Republic of China,* 60 FR 52155 (October 5, 1995) and *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China,* 57 FR 21058 (May 18, 1992) (''*Carbon Steel Butt-Weld Pipe Fittings from the PRC*''). Thus, the respondents argue that the Department should not use Indian producer's steel data in the final results.

Department's position: We disagree with petitioner that Indian bearing producers' financial statement data should be used to derive a surrogate price to value bearing quality steel. Section 773(c)(1) of the Act states that, for purposes of determining normal value in a nonmarket-economy country, ''the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.'' We have indicated in past reviews that our preference is to value factors using publicly-available information. *See, e.g., TRBs 8, TRBs 9,* and *TRBs 10.* In addition, our longstanding practice is to rely, to the extent possible, on public statistics on surrogate country information to value any factors for which such information is available over company-specific data. *See Carbon Steel Butt-Weld Pipe Fittings from the PRC.* We view public statistics to be the best available information because they reflect prices for an entire country and not one specific company. Therefore, we continue to rely on import statistics from India and Indonesia and not from a particular company.

Even if we were to look at the individual producer's financial statements of the seven companies for which petitioner submitted data concurrent with the POR, only two companies, Asian Bearing and Tata Timken, break out steel costs according to the type of steel (steel bar, steel sheet, steel strip) used to produce specific TRB parts. Because the other five companies did not break out the specific types of steel used in production, we cannot accurately value each of the individual steel types used in the production of the subject merchandise as we are able to do based on import statistics.

Of the two companies that do break out their steel costs by steel type, only Asian Bearing separately identifies ''steel bars,'' the steel input used by the Chinese respondents to produce cups, cones, and rollers. However, Asian Bearing provides a single cost for steel bar and does not provide specific costs according to the type of bar used (*e.g.*, hot-rolled versus cold-rolled). Therefore, we cannot accurately value the two types of steel bar used in the production of cups and cones versus that used in the production of rollers. Accordingly, Asian Bearing's average

cost of steel bars is not a sufficiently accurate value for the purpose of valuing steel used in the production of cups, cones, and rollers.

Because we have surrogate data derived from public statistics that allow us to value the hot-rolled and cold-rolled bars used to produce the components of tapered roller bearings, we continue to rely on such data instead of the data on material costs from the Indian bearing manufacturers' financial statements.

Comment 2: Reliability of Indian Import Statistics and the U.S. Benchmark

Petitioner argues that, if Indian producer data is not used by the Department to value bearing quality steel, Indian import statistics are the next best source. Petitioner states that Indian import statistics are preferable to any other trade statistics because they are data from the primary surrogate; the Indian bearing industry is large, with the result that imports into India are likely to include a substantial portion of bearing quality steel; and there is no evidence that the Indian statistics are unreliable.

Petitioner further argues that Indian import statistics for steel used in the production of cups and cones should not be deemed unreliable after comparison to an average of U.S. import statistics because the U.S. import category that is being used for comparison purposes includes imports of non-alloy steel that require case hardening. According to petitioner, case-hardened steel differs from the through-hardened grade 52100 steel used by Chinese manufacturers because of its carbon content, production process, and use. Petitioner further argues that there is a price difference between these two types of steel, with case-hardened steel being significantly lower in price. Therefore, the range of prices in this category can be only a rough gauge of the value of the grade 52100 steel used by Chinese producers.

Petitioner further argues that a modified U.S. benchmark consisting of one of the prices in the U.S. range, U.S. imports from Sweden (which, petitioner argues, consists of grade 52100 steel), as well as other world-market factor values on the record are similar in price to both the Indian producer and the Indian import data. Thus, petitioner argues that both sets of Indian data are reasonable and should be found to be a reliable source from which to obtain steel values for steel used to produce cups and cones.

The respondents argue that the Department was correct in rejecting Indian import data for use in valuing the hot-rolled alloy steel bars for the production for cups, cones, and rollers. Respondents note that, in the past seven reviews, the Department has declined to use Indian import statistics to determine surrogate values for certain types of steel because they were found to be unreliable. The respondents further note that, after a comprehensive analysis, the Department reaffirmed its stance in both the *AR* and *NSR Preliminary Results.*

The respondents state that the Department has exhaustively demonstrated in this and previous reviews that Indian import data for cups and cones under harmonized tariff schedule (''HTS'') category 7228.3019 is too general and does not correspond to bearing-quality steel. In addition, the respondents argue that the petitioner's contention that Indian import statistics are not unreliable when compared to a modified U.S. basket category that excludes lower-priced case-hardened steel is based purely on conjectural and anecdotal evidence. The respondents cite to *TRBs 10* in noting that this argument was rejected in prior segments of this proceeding. The respondents note that when the Indian statistics are compared to the proper U.S. benchmark, Indian import prices for steel used in the manufacture of cups and cones are almost double in price.

Moreover, the respondents disagree with petitioner's contention that the U.S. benchmark used by the Department for cups and cones, HTS category 7228.30.20, contains case-hardened steel. The respondents note that Additional U.S. Note 1(h) to Customs chapter 72 defines ball bearing steel as ''having not less than .95 percent nor more than 1.13 percent of carbon.'' The respondents note that the petitioner stated that case-hardened steel consists of a carbon content of 0.2 percent. Thus, according to the respondents, case-hardened steel cannot be included in this category.

The respondents also argue that, although petitioner is an international producer of bearings, it has not made any effort to supply its own invoices which could help to establish a surrogate price for bearing quality steel. Furthermore, the prices petitioner did supply are not supported with any documentation, and, in addition, buttress the respondents' contentions that the Indian data are unreliable.

Department's position: In accordance with our practice, we first looked at data from the primary surrogate, India, to determine the best available information for use in valuing TRB components. Consistent with past reviews, we used U.S. import data as a benchmark for determining proper values for hot-rolled alloy steel bars for the production of cups and cones, cold-rolled bearing quality steel bar used in the production of rollers, and cold-rolled steel sheet for the production of cages. We used U.S. import data as a benchmark because the U.S. HTS category is the only HTS customs category that provides a further break-down into a bearing-quality steel category. The use of such a benchmark has been upheld by the Court of International Trade (''CIT''). *See, e.g., Timken Company* v. *United States*, Slip Op. 99–73, at 13 (''*Timken* v. *U.S.*'').

Accordingly, consistent with prior reviews, we used U.S. import data under HTS category 7228.30.20 as a benchmark for hot-rolled bearing quality steel bar used to manufacture cups and cones. We disagree with petitioner that data in this U.S. category is skewed due to the inclusion of case-hardened steel, which, according to petitioner, is not used by Chinese producers and is significantly lower in price than through-hardened steel. There is no definitive evidence on the record indicating that U.S. imports are comprised of either case-hardened or through-hardened steel. There is also no definitive evidence on the record that the Indian import statistics do not also include case-hardened and through-hardened steel.

Although we disagree with petitioner that the data in the U.S. benchmark category is skewed because of the inclusion of different types of bearing quality steel, we agree that the range of prices contained in HTS category 7228.30.20 can be used to gauge the reliability of Indian import values. In examining the U.S. import data from this category, the range of prices from the countries with the most significant volumes of sales is approximately $642 to $834 during the period covered by the administrative review and $622 to $866 for the new shipper review period. The prices comprising this range represent sales made in significant quantities to the United States. Thus, to determine the reliability of surrogate values for hot-rolled alloy steel bars for the production of cups and cones, we compared them to the range of U.S. import values in this particular HTS category.

After comparing the range of U.S. prices to the Indian import data from Indian import category 7228.3019, we disagree with petitioner that Indian import data from this category should be used for valuing certain TRB components. (We note that, as we have repeatedly found in the past, we were unable to isolate bearing quality steel in Indian import category 7228.30 because none of the eight-digit sub-categories

within 7228.30 specifically include bearing quality steel bar. Only the ''Others'' category, 7228.3019, could contain the type of bearing quality steel used in the production of cups and cones. Thus, we used 7228.3019.) In comparing these data from 7228.3019 to the range of prices found within U.S. import category 7228.30.20 (the only import category on the record which explicitly contains only bearing quality steel), the Indian values continue to be unreliable because the values for these imports remain significantly higher than any price in the U.S. import range. Therefore, we continue to find that Indian import prices from category 7228.3019 are unreliable for use in valuing steel used in the manufacture of cups and cones.

Because we found the Indian import statistics and the company-specific data to be unreliable, we turned to the examination of the next best available information: Japanese exports to India. As we found in prior reviews (*e.g., TRBs 10*), the Japanese export statistics provide a breakdown of the broad six-digit 7228.30 category into several more narrowly defined sub-categories. Japanese category 7228.30.900, ''Bars and Rods, of Other Alloy Steel,'' is a category which would include the type of bearing quality steel bar that would be used to manufacture cups and cones. Thus, we consider these Japanese data on exports to India to be an appropriate and more accurate reflection of Indian import values.

In comparing this category to the range of values contained in the U.S. benchmark category, 7228.30.20, we found that these Japanese export prices to India fall within the range of the values in the U.S. category. Because this Japanese tariff category is the narrowest category which could contain bearing quality steel, and because it is consistent with values contained in our U.S. benchmark category, we believe that these data are the best alternative for valuing steel used in the production of cups and cones. It is the Department's stated preference to use information from its primary surrogate to the extent possible. (*See* section 351.408(c)(2) of the Department's regulations.) Because these data relate to our primary surrogate and are within the price range of the U.S. benchmark category, we have not analyzed data from our secondary surrogate, Indonesia, to find a value for steel used to produce cups and cones. Therefore, we are using data related to our primary surrogate, India, i.e., Japanese data on exports to India from category 7228.30.900, to value steel bar used in the manufacture of cups and cones.

Comment 3: Use of Indonesia as a Surrogate and Data on Indonesian Imports/Japanese Exports to Indonesia

Petitioner argues that Japanese exports to Indonesia and Indonesian imports do not provide appropriate surrogate values for the bearing industry. First, petitioner contends that Indonesia is not a proper surrogate because its bearing industry is small, does not produce TRBs, and is not a significant importer of bearing quality steel. Second, petitioner argues that both Indonesian imports and Japanese exports to Indonesia must consist of steel other than bearing quality steel since the Indonesian bearing industry is so small. Therefore, petitioner contends that Indonesian values are not representative of the cost of materials incurred by the Chinese bearing industry.

According to petitioner, there are only two Indonesian bearing producers, PT Logam Sari Bearindo and an NSK affiliate. Petitioner estimates that the total annual bearing production of the two companies combined would be only 1,142 metric tons, which would account for substantially less than the total volume of Japanese exports to Indonesia under HTS category 7228.30.900 of 1,647 metric tons. Petitioner further argues that steel imports into Indonesia are not even remotely comparable to the steel requirements of the Chinese bearings industry that had over $32 million in bearing exports to the United States alone during the POR. Petitioner contends that these data indicate that Indonesia is not a significant bearing producer for purposes of being used as a surrogate country for China. Furthermore, petitioner argues that because Indonesia was more deeply affected by the Asian financial crisis, China and India are much more comparable in terms of economies for the POR than are China and Indonesia.

The respondents disagree, arguing that Indonesia is a proper surrogate and its import data (including Japanese exports to Indonesia) is proper to use for valuing steel inputs. The respondents note that the Department has repeatedly determined that Indonesia is a significant producer of bearings citing to *TRBs 10* and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Romania, Final Results of Antidumping Duty Administrative Review*, 63 FR 11217 (March 6, 1998) (''*TRBs From Romania 98*''). Furthermore, the Department has confirmed through Indonesian export statistics that Indonesia is a significant producer of tapered roller bearings. Thus, the respondents argue that Indonesia is a proper surrogate country choice.

The respondents also disagree with the petitioner's assertion that, because the Indonesian industry is small, the majority of the Indonesian steel imports and exports from Japan must not be bearing quality steel. The respondents argue that even if there are only two Indonesian bearing manufacturers (an assertion that respondents note the petitioner has not provided evidence of), the record demonstrates that the two companies did produce a significant amount of bearings, which the respondents estimate to be 2,519 metric tons. Thus, according to the respondents, a significant amount of the hot-rolled steel exported to Indonesia from Japan and the cold-rolled steel imported by Indonesia likely consisted of bearing quality steel. Therefore, these prices are representative of the cost of steel used to make TRBs components.

Furthermore, the respondents argue that the Indonesian data are consistent with the U.S. benchmark and the prices paid by Chinese producers for market-economy inputs imported during these review periods. Thus, they are more reliable than Indian steel data. Lastly, the respondents note that the benchmark posited by petitioner is unsupported and uncorroborated.

Department's position: We disagree with petitioner that Indonesia is not a proper surrogate for use in valuing certain steel inputs for TRBs. Although India is the primary surrogate in this review, it is our practice to use data from a secondary surrogate when data from the primary surrogate is found to be unreliable. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Drawer Slides From the PRC*, 60 FR 54472, 54475–76 (October 24, 1995) and *Chrome-Plated Lug Nuts from the PRC; Final Results of the Antidumping Duty Administrative Review*, 61 FR 58514, 58517–18 (November 15, 1996). We have used Indonesia as a secondary surrogate in several cases involving the PRC where, as here, Indian data for certain TRB components was found to be unreliable, even though India was the primary surrogate. *See TRBs 10*. Moreover, just as we have determined in these reviews, we have repeatedly determined that Indonesia is a significant producer of bearings. *See TRBs From Romania 98*. Thus, we have continued to use Indonesia as a secondary surrogate for purposes of these reviews.

As discussed in Comment 2 above, in order to determine the proper surrogate to use in valuing steel inputs for certain TRB components, we first looked at

import data from India, our primary surrogate. For cups and cones, we looked at both Indian import prices and Japanese export prices to India. Because we found that Indian import values, as reflected in the export data, were within the range of prices in our U.S. benchmark category for cups and cones, we have not resorted to the use of Indonesian data.

With regard to steel used in the production of rollers, we continue to use Indonesian import data. In the *Preliminary Results* of both segments, we determined that Indian data were unreliable for purposes of valuing steel used in the production of rollers. None of the comments submitted by the parties has led us to change that conclusion. Thus, because Indonesian import statistics were found to be consistent with the U.S. benchmark for steel used in the manufacture of rollers, we are continuing to use Indonesian import statistics from HTS category 7228.50.000 to value steel used in the manufacture of rollers.

Comment 4: Valuation of Alloy Steel Scrap

Petitioner argues that the scrap value the Department assigned to steel scrap generated from the manufacture of cups, cones, and rollers in the new shipper review, which was derived from Japanese export data to Indonesia from HTS category 7204.29.000, was incorrect. Petitioner notes that the ratio of scrap to new steel prices for cups and cones was almost 42 percent, a percentage which, according to the petitioner, is implausible. Petitioner argues that this indicates that the category repeatedly used by the Department to value alloy steel scrap from the production of cups, cones, and rollers, HTS category 7204.29, is inappropriate.

Petitioner argues that it is unlikely that scrap generated from the production of cups, cones, and rollers consists of only pure alloy steel. Instead, petitioner contends that it is commingled with metal from the grinding wheels and tools and with sheet steel from the cage-making operations. According to petitioner, under General Rule of Interpretation 3 (''GRI 3''), all scrap from TRBs is properly classified under HTS category 7204.41, which covers turnings and shavings. Therefore, the Department should use HTS category 7204.41 to value cup, cone, and roller scrap.

The respondents disagree with petitioner, stating that the Department has previously rejected the petitioner's argument on this issue. The respondents argue that petitioner incorrectly relies on GRI 3 for the premise that all scrap from TRB production should be classified under HTS category 7204.41. The respondents note that GRI 3 directs that ''the heading which provides the most specific description shall be preferred to headings providing more general descriptions.'' Furthermore, GRI 3 requires Customs to classify the composite goods ''as if they consisted of the material or component which gives them their essential character'' which, in this case the respondents argue, would be alloy steel scrap. Finally, the respondents argue that because the Department confirmed its scrap classification with Customs, it should continue to use HTS category 7204.29.00 to value waste and scrap generated from the manufacture of cups, cones, and rollers.

With regard to the administrative review, the respondents agree with the petitioner's contention that consistency requires that the Department apply factor and scrap values from the same surrogate country. Thus, the respondents state that for the administrative review, the Department should use Japanese exports of alloy steel scrap to Indonesia under HTS category 7204.29.000 to value the scrap for the production of cups, cones and rollers.

Department's position: As noted in Comment 2 above, we have valued steel used to manufacture cups and cones based on data regarding Japanese exports to India for both the new shipper review and the administrative review. Therefore, in accordance with our practice, we have valued scrap generated from the manufacture of cups and cones from the same surrogate source, India, for both reviews. Because we are no longer using Japanese export data to Indonesia for this value, petitioner's argument regarding Japanese exports to Indonesia is no longer applicable.

We disagree with petitioner that the category repeatedly used by the Department to value alloy steel scrap from the production of cups, cones, and, in this particular case, rollers, is inappropriate. As discussed in our Steel Values Memorandum and as stated in the *AR* and *NSR Preliminary Results*, we confirmed with the Customs Service that HTS category 7204.29 is the proper category to use in valuing this type of scrap. As stated in prior reviews, although the PRC cup and cone production process may generate lower quality scrap, the by-product is still bearing-quality steel scrap. Scrap under HTS category 7204.41 is of a grade and value inferior to bearing quality steel scrap contained in HTS category 7204.29. Because steel used in the production of cups and cones is bearing quality steel, scrap generated through the production process must be of a corresponding grade. Therefore, we have continued to use HTS category 7204.29 to value scrap derived from the production of cups, cones and rollers.

Additionally, although the respondents' specific arguments with respect to the source of scrap valuation are not completely applicable because we are no longer using Japanese exports to Indonesia for our valuation, we are addressing the comment because we have used Japanese export data for our valuation of the steel used in the production of cups and cones. We disagree with the respondents that the Department should use Japanese exports of alloy steel scrap to the applicable country under HTS category 7204.29.000 to value the scrap for the production of cups, cones and rollers in order to be consistent in valuing the factors and scrap values from the same surrogate country. As noted above in Comment 2, the use of data for Japanese exports to India or Indonesia is effectively a refinement of Indian and Indonesian import data, respectively. As we regard Japanese exports to India as reflecting Indian import values, and Japanese exports to Indonesia as reflecting Indonesian import values, the use of an Indian or Indonesian import value to value scrap is, in fact, consistent.

Comment 5: Elimination of Small Quantities

Luoyang and ZCCBC argue that the Department should eliminate from its calculations of cup and cone values data on two monthly shipments, January 1998 and May 1998, that were of small import quantity and ''whose per-unit value is substantially different''—higher in this case—''from the per-unit values of the larger quantity imports of that product from other countries.'' According to the respondents, the CIT has recently noted that this is the Department's established administrative practice. *See Shakeproof Assembly Component Division of Illinois Tool Works Inc.* v. *United States*, Slip Op. 99–70, at 11 (''*Shakeproof*''), *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China, Final Results of Administrative Reviews*, 62 FR 11813 (March 13, 1997) and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Romania, Final Results of Antidumping Duty Administrative Review*, 62 FR 37194 (July 11, 1997).

Petitioner agrees with the respondents that the Department's normal practice, which has been upheld by the CIT in *Shakeproof*, is to eliminate from the calculation imports from market-economy countries that were made in small quantities. However, petitioner notes that this practice is to exclude small quantity imports from certain countries as a whole when their prices appear aberrational in comparison with imports from other countries, not selected monthly entries from a certain country. *See Shakeproof.* Furthermore, if the Department excludes entries for these two months because they were too high, by the same reasoning the Department should also exclude export prices in two other months, August 1997 and March 1998, because they are lower than the average price.

Department's position: Because we are no longer using Japanese export data to Indonesia to value steel used in the production of cups and cones, it is no longer necessary to address these comments.

Comment 6: Elimination of May 1998 Data

Luoyang and ZCCBC argue that the May 1998 data used in cup and cone calculations that was derived from Japanese exports to Indonesia should be excluded from the calculations because some or all of these exports probably entered Indonesia after the end of the POR. Thus, these values would not represent values during the POR.

Petitioner disagrees with this argument, indicating that there is no prior practice on this issue. Petitioner states that the issue is not the precise timing of when the factor values occur, but whether the values represent reasonably contemporaneous factor values in the surrogate market. Thus, there would be no reason to exclude shipments made during the last month of the POR.

Department's position: Because we are no longer using Japanese export data to Indonesia to value steel used in the production of cups and cones, this argument is no longer applicable.

1(b) Labor Valuation

Comment 7: The Regression-Based Wage Rate Should Be Adjusted Upwards

Petitioner argues that the Department should adjust the regression-based wage rate upwards to reflect a fully-loaded labor cost. Petitioner contends that the use of wages as the basis for valuing labor substantially understates the cost of labor to the manufacturer because wage rates do not include all labor costs such as welfare fund payments, unemployment taxes and health care costs. In support of its argument, petitioner refers to the International Labor Organization's *1998 Yearbook of Labor Statistics* (''*YLS*''). Petitioner notes that, in addition to the data on ''manufacturing wages'' which the Department used for its regression analysis, the *YLS* also contains a separate section on ''labor costs'' that includes the cost of employee benefits not captured in the ''manufacturing wages'' section. According to petitioner, this information shows that labor costs were 67 percent higher than the wage rates used by the Department.

Petitioner further notes that these expenses are not captured in the Department's overhead and SG&A ratios because the Indian bearing companies report expenditures associated with labor separately from other expenses. Therefore, the Department should recalculate its regression analysis using the ''labor costs'' reported in the *YLS,* thereby computing a fully-loaded labor rate.

The respondents contend that the Department properly applied the regression-based wage rate as provided in section 351.408(c)(3) of its regulations. The respondents further argue that inclusion of other labor costs would distort the Department's valuation of labor because Chinese producers do not incur the same labor costs as market economy producers.

Department's Position: Our regulations at section 351.408(c)(3) state that ''the Secretary will use regression-based wage rates reflective of the observed relationship between wages and national income in market economy countries.'' Therefore, to value the labor inputs in both reviews, we applied the PRC regression-based wage rate published by the Import Administration on its website, which was last revised in May 1999.

With respect to petitioner's argument, we disagree. The *YLS* states that the wage rates, used to calculate the regression analysis are comprehensive wage rates which also includes overtime, bonuses, holiday pay, incentive pay, pay for piecework, and cost-of-living allowances. *See Magnesium from the People's Republic of China, Final Results of Antidumping Duty New Shipper Administrative Review,* 63 FR 3085, 3091 (January 21, 1998). Thus, for purposes of these final results, we have not adjusted the regression-based wage rate used in the preliminary results.

1(c) Overhead, SG&A and Profit

Comment 8: Excluding Asian Bearing Company and National Engineering Company

Premier and Weihai state that the Department properly excluded the companies Asian Bearing and National Engineering Company (''NEI'') from the list of Indian bearings producers utilized for calculating the overhead, SG&A and profit ratios because the reporting methodology used by these two companies is inconsistent with the Indian GAAP standards used by the remaining six companies.

Petitioner contends that there is no evidence that the accounting policies of Asian Bearing and NEI are inconsistent with the methodology used by the other six Indian producers. Therefore, the Department should include the financial information of Asian Bearing and NEI into its calculation of overhead, SG&A and profit. Petitioner further argues that incorporating the financial data of all eight Indian bearings producers more accurately represents the range of operating results that may be expected of bearings producers in China, which is consistent with the Department's surrogate methodology.

Department's Position: We disagree with petitioner and have excluded the data for Asian Bearing and NEI in calculating surrogate overhead, SG&A and profit ratios because, according to the Auditor's Reports, the methodology used in recording and reporting the financial condition of these two companies appears, in certain instances, to be inconsistent with the methodology (*i.e.,* Indian GAAP) used by the remaining six companies.

In this review, the Auditor's Report included with Asian Bearing's 1997–98 financial statements expresses a clear reservation about how certain interest expenses (with their corresponding effects on depreciation and other expenses) have been reported, noting that the methodology is not in accordance with accounting principles recommended by the Institute of Chartered Accountants of India. The Auditor's Report also notes that Asian Bearing continues to be a ''sick'' company as defined by India's Sick Industrial Companies Act. Likewise, the auditors' endorsement of NEI's 1997–98 Financial Statements, as contained in the Auditor's Report, includes qualifications regarding the company's treatment of various overhead and SG&A expenses. As in *TRBs 10,* the qualifications indicate that the treatment of these expenses is not consistent with Indian GAAP.

Given these significant differences, it would be incongruous to combine the reported data of all eight companies.

Comment 9: The Department Should Recalculate Surrogate Factory Overhead and SG&A

Luoyang and ZCCBC argue that in order to be consistent with the methodology applied in other NME proceedings, the Department should calculate overhead and SG&A expenses as a percentage of total cost of manufacturing (''COM''), citing to *Heavy Forged Hand Tools, Finished and Unfinished, With or Without Handles, From the People's Republic of China; Final Results and Partial Recession of Antidumping Administrative Reviews,* 64 FR 43659, 43671 (August 11, 1999) and *Certain Helical Spring Lock Washers from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review,* 64 FR 37743, 37744 (July 13, 1999).

Petitioner contends that the issue to be addressed is whether the denominator used in the Department's calculation of the overhead and SG&A ratios represents the same expenses to which the ratios are applied. According to petitioner, the Department's calculation methodology is reasonable because the respondents are unable to demonstrate a flaw in our calculation methodology.

Department's Position: Although we agree with respondents that we will normally calculate overhead and SG&A expenses as a percentage of COM, we have modified our methodology with respect to this proceeding because we are unable to separately value the direct and indirect labor expenses reported by the Indian producers. Therefore, we used the average of the Indian producers' reported data with respect to the numerator (reported overhead and SG&A expenses) and the denominator (direct input costs excluding labor), thus yielding internally consistent ratios. These ratios, when multiplied by our calculated FOP values, constitute the best available information concerning overhead and SG&A expenses that would be incurred by a PRC bearings producers given such FOP data.

Comment 10: Excluding ''Net Loss (Gain) on Fixed Assets Sold''

Premier and Weihai contend that the Department improperly included the category ''Net Loss (Gain) on Fixed Assets Sold'' as an element of overhead. They argue that this category should be excluded from overhead expenses because these losses (gains) are incurred independent of manufacturing or selling activities.

Petitioner notes that the Department has specifically rejected the respondents' argument in previous reviews. *See, e.g., TRBs 10.* Further, petitioner argues that the respondents have failed to provide any new evidence or argument that should persuade the Department to change its position.

Department's Position: We agree with Petitioner that the ''Net Loss (Gain) on Fixed Assets Sold'' should be included in the calculation of the overhead ratio. As discussed in *TRBs 10,* the Department has addressed this issue previously in *TRBs 8.* In that review, we stated that losses '' * * * incurred in selling fixed assets used to manufacture merchandise clearly [are] related to manufacturing activities.'' *See TRBs 8* at 62 FR 6184. This is so because ''Net Loss (Gain) on Fixed Assets Sold'' identifies the relevant capital cost of the assets used in manufacturing, and therefore, as with depreciation, this line item should be included in overhead. Accordingly, we have continued to include this category in our overhead calculation for the final results.

Comment 11: Excluding ''Other Expenses'' from Factory Overhead and SG&A Calculations

Premier and Weihai argue that the category ''Other Expenses'' or ''Miscellaneous Expenses'' reported in several of the Indian producers' financial statements should not be included in the overhead and SG&A calculations because there is insufficient information to determine whether all of these expenses are related to the production of TRBs.

Department's Position: This issue has been raised in earlier reviews, and our position remains unchanged. As stated in *TRBs 10,* we cite to our position on this issue in *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the Republic of Romania; Final Results and Rescission in Part of Antidumping Duty Administrative Review,* 61 FR 51427 (October 2, 1996) (''*TRBs from Romania 96*''). In that review, we stated, ''[t]he Department generally does not dissect the overhead rate on a surrogate country and apply only components relevant to the producer. It is generally not possible to break the surrogate overhead value into its individual components at a level of detail that would be necessary to value each individual component of the NME producer's overhead. * * * Rarely, if ever, will it be known that there is an exact correlation between overhead expense components of the NME producer and the components of the surrogate overhead expenses. Therefore, * * * the Department normally bases normal value completely on factor values from a surrogate country on the premise that the actual experience in the NME cannot meaningfully be considered. Accordingly, Department practice is to accept a valid surrogate overhead rate as wholly applicable to the NME producer in question.'' *See TRBs from Romania 96,* at 61 FR 51429. For these same reasons, we have continued to include these other expenses in our overhead and SG&A calculations for the final results.

Comment 12: Commission Expenses

Premier and Weihai argue that the Department incorrectly included ''Other Commissions'' in its SG&A calculation. They argue that this category should be excluded from SG&A expenses because these types of expenses are either valued directly (individually) elsewhere in the Department's FOP calculation and are, therefore, double-counted, or are otherwise not applicable to the Chinese respondents.

Department's Position: We disagree that commissions should be excluded. In *TRBs 10* we explained that commissions are standard selling costs and, as such, are properly categorized under SG&A. *See TRBs 10,* 63 FR 63852. Whether PRC producers have commissioned sales staff is irrelevant. As discussed in our position under the previous comment, we cannot tailor surrogate overhead or SG&A rates to match the circumstances in the NME country. Therefore, for our final results we have included all commission expenses as part of SG&A.

Comment 13: Excluding ''Consumption of Traded Goods'' from Overhead Rate Calculation

With respect to the administrative review, petitioner argues that the Department should exclude the category ''Consumption of Traded Goods'' from the denominator in calculating the factory overhead ratio because this category includes items which are only purchased and sold—but not produced—by the Indian bearings producers and, therefore, have nothing to do with the producers' manufacturing operations. Furthermore, the CIT recently instructed the Department to exclude the purchases of traded goods from the cost of manufacture with respect to the 1994–95 administrative review of TRBs because ''Commerce failed to demonstrate how these already manufactured goods constitute a material cost incurred in manufacturing the subject merchandise.'' *See Timken*

v. *U.S.* Petitioner notes that the Department followed this ruling in the preliminary results of the new shipper review.

Luoyang and ZCCBC argue that any adjustment to the ''Consumption of Traded Goods'' category should be accompanied by a downward adjustment to the profit ratio because the sale of ''traded goods'' is a source of revenue for Indian bearing producers.

Department's Position: We disagree that we should exclude ''Consumption of Traded Goods'' from the direct input costs calculated for the Indian bearings producers. Although the CIT did instruct the Department to exclude the purchases of traded goods from the cost of manufacture with respect to the 1994–95 administrative review of TRBs in *Timken* v. *U.S.*, that ruling is not yet final. Thus, we are not compelled to apply the court-directed methodology in these reviews.

We further note that we excluded ''Consumption of Traded Goods'' from our direct input costs calculation in the preliminary results of the new shipper review. Again, because *Timken* v. *U.S.* ruling is not yet final, we have revised our preliminary calculations to include the traded goods amount in direct input costs.

Comment 14: Power Should Not Be Classified As A Direct Cost

Premier and Weihai note that in *TRBs 8* the Department properly classified power and fuel as an element of overhead rather than as a direct material input. Accordingly, the Department should revise its preliminary overhead and SG&A calculations to comply with past precedent.

Petitioner counters that section 773(c)(3) of the Act requires that the Department separately identify, quantify and value all ''energy and utilities consumed'' in producing subject merchandise. Petitioner contends that, given the statutory language, there is no basis for allocating electricity usage between direct costs and other activities. Furthermore, petitioner notes that in *TRBs 8* the respondents had not reported their energy consumption and, therefore, this factor could not be properly valued as required by the statute.

Department's Position: As noted by petitioner, our treatment of electricity in this case can be distinguished from *TRBs 8*, where we incorporated the consumption of energy as part of overhead. The present case is distinct because we have been able to quantify and value energy as a factor input. Therefore, we have not altered our calculation methodology for these final results. *See TRBs 10*, 63 FR 63858.

Comment 15: Reliability of Market-Economy Input Prices

The petitioner argues that because the price structure of China's domestic market is distorted by pervasive government intervention, imports into China are unreliable indicators of market values. According to the petitioner, in order for many market-economy exporters to compete in China, they must lower their prices to levels below world-market price levels. In light of the above, the petitioner states that the Department should be ''extra cautious'' in accepting any value based on purchases by an NME producer. Thus, the petitioner argues that the Department should assume that imports from market-economy countries are not reliable market values unless there is evidence that such values are otherwise consistent with world-market prices.

The petitioner further argues that the Act does not compel the Department to use market-economy prices of direct imports when valuing the factors of production. Rather, the petitioner notes that, based on the distortive nature of the Chinese economy, import prices paid by Chinese producers are not necessarily the best available information concerning the valuation of factors. Citing to *Sigma Corp.* v. *United States* (117 F.3d 1401, 1408 (Fed. Cir. 1997)), the petitioner notes that the Federal Circuit held that the Department must use a methodology that produces ''reasonably accurate estimates of the true value of the factors of production.'' According to the petitioner, the Department should not assume that a price paid in market-economy currency to a market-economy producer is a reasonably accurate estimate of the true value of the factor of production. The petitioner contends that such values should be scrutinized to the same degree that the Department examines possible surrogate values.

Lastly, the petitioner notes that even if the Department uses market-economy prices of direct imports to value factors of production, the Department should not use such prices to value a larger volume of inventory than such purchases actually represent.

Premier, Weihai, and Luoyang argue that market-based prices actually paid by respondents for imported inputs constitute the most accurate representation of the respondents' cost and should be used to value the inputs. According to Premier and Weihai, the Department's policy to use such prices is consistent with the Act, which states that the ''valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority,'' and with *Lasko Metal Products* v. *U.S.* (43 F.3d 1442, 1446 (Fed. Cir. 1994)) (''*Lasko*''), in which the Federal Circuit held that ''where we can determine that an NME producer's input prices are market determined, accuracy, fairness, and predictability are enhanced by using those prices.'' Therefore, Premier and Weihai argue that the Department should continue to use the actual prices of direct imports to value such inputs because the best available information is market-driven prices and costs.

Premier and Weihai find the petitioner's argument concerning NME distortion of prices for direct imports to be without merit because, according to the respondents, the petitioner has not explained how the alleged distortions in the Chinese domestic economy can impact prices offered in third countries. Premier and Weihai also note that similar arguments were made to the Department in its recent rulemaking for the new regulations and the Department rejected such arguments in light of the increased accuracy achieved by using prices paid by NME producers to market-economy suppliers. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27366 (May 19, 1997) (''*Final Rule*'').

Luoyang notes that the Department acted consistently with its regulations when it used the producer import price to value the entire factor input even though the imported input reflected less than 100 percent of the factor input used. In support of its argument, Luoyang cites *Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 61794, 61796 (November 19, 1997) and the *Draft Final Results of Redetermination On Remand Pursuant to Shakeproof Assembly Components Division of Illinois Tool Works, Inc.* v. *United States*, Court No. 97–12–02066 (September 9, 1999).

Department's Position: In accordance with our established practice and our regulations, we are continuing to use the actual prices of directly imported steel to value steel inputs because these prices represent the actual market-based prices incurred in producing the subject merchandise and, as such, are the most accurate and appropriate values for this particular factor for the purpose of calculating NV. As noted by the respondents, this practice has been affirmed in court decisions, such as

Lasko, and is codified in our regulations at section 351.408(c)(1).

As noted in our *Final Rule*, while we do not view the *Lasko* decision as permitting us to use distorted prices, we believe that the Court's emphasis on ''accuracy, fairness and predictability'' provides us with the ability to rely on prices paid by NME producers to market-economy suppliers in lieu of using surrogate values. *See Final Rule* at 62 FR 27366. We disagree with the petitioner that imports into China are unreliable indicators of market values because China's domestic market is distorted by government intervention. While China's NME status indicates that domestic prices in China are unreliable, there is no evidence that domestic distortions impact the price at which market-economy suppliers would offer products for sale to Chinese producers. We have no reason to assume that, when dealing with Chinese importers, market-economy suppliers ignore rules of supply, demand, and profit-seeking behavior within a competitive world market.

Even if we were to accept the petitioner's argument that excess steel supply in China leads foreign competitors to ''dump'' steel on the Chinese market, the petitioner has not presented evidence that there is an excess supply of the particular type of steel used in the production of TRBs nor evidence that such excess supply somehow renders the steel prices being offered to certain Chinese TRB producers by market-economy suppliers unreliable. There are a variety of reasons for setting a particular price higher or lower than a world benchmark in an arm's length transaction. In examining actual sales between private parties, the Department would have to be convinced by evidence on the record that the particular sale in question was in some way unrepresentative of market-economy forces. For example, we would be willing to disregard a price paid by an NME producer to a market-economy supplier if the quantity of the input purchased in a given transaction is, for example, less than the volume that would normally be traded. Where the transaction is not in commercial quantities, the price may not be truly representative of a market price.

Comment 16: Use of Market-Economy Input Prices Obtained by Trading Companies

Premier and Luoyang argue that, consistent with the Department's findings in *TRBs 10* at 63 FR 63854 and the *Final Results of Redetermination Pursuant to Court Remand* (August 31, 1998), *Olympia Indus., Inc.* v. *United States*, Slip Op. 98–49 (April 17, 1998) (''*Olympia II*''), the Department should use import prices paid by PRC trading companies as surrogate data. Premier and Luoyang argue that the Department's determination in *TRBs 10* supports the contention that market-based prices actually paid by Chinese producers for imported steel constitute the most accurate representation of the producer's cost of steel and, thus, should be used as surrogate data to value all steel inputs. Premier and Luoyang note that both the courts, in cases such as *Lasko*, and the Department have found that market-economy input prices of direct imports are the most appropriate and accurate basis for determining the values of the inputs used.

With respect to trading company import prices, Premier and Luoyang cite to the Department's statement in the tenth review in which it said that the question is ''whether trading company import prices, as alternate surrogate data, are preferable to surrogate data from a market-economy country that is a significant producer and at a level of comparable economic development'' and notes that in the tenth review the Department did use trading company prices as alternate surrogate data. Luoyang notes that in *Olympia II* and as followed in *TRBs 10*, the Department set forth criteria to be used in evaluating whether alternate surrogate values would be used. Luoyang specifically cites to the Department's statement in *TRBs 10* in which it said, ''To assess the reliability of the Chinese trading company's steel prices, we have examined the factors outlined in the *Olympia II* remand: (1) The value and volume of steel imports, (2) the type and quantity of the imported steel, and (3) consumption of imported steel by the NME producer.'' *See TRBs 10* at 63 FR 63854. In the current case, Luoyang argues that the Department must apply these same criteria to determine whether the trading company's steel imports meet the Department's standard. According to Luoyang, the fact that a trading company rather than the producer is the importer should make no difference in determining the best surrogate value because the price paid for the actual input has to be considered as the ''best available information.''

The petitioner argues that the record does not indicate that the prices of trading company imports were market determined. As discussed in Comment 15: Reliability of Market-Economy Input Prices, the petitioner notes that even market economy countries do not necessarily trade with China on a market-economy basis. According to the petitioner, the presence of a Chinese trading company as an intermediary adds further elements of distortion. As examples, the petitioner notes that in a market economy a trading company would add a markup and would get a different price than a producer because of its ability to purchase in volume for the needs of several producers. The petitioner argues that the Department would not be taking these differences into account if it used the price between the trading company and the market-economy supplier. Furthermore, the petitioner argues that in the absence of evidence that a sale to a trading company is a *bona fide* arm's length transaction, the Department should not regard the price of that sale as a reliable surrogate value and that, even if this requirement were met, a reasonable markup should be added to reflect the trading company's expenses and profit.

Department's Position: For inputs that were purchased through a trading company, we have not used the Chinese trading company values, as requested by respondents. Instead, we used surrogate values from the appropriate market economy country.

We recognize that in Olympia (Slip Op. 99–18), the Court, in dicta, stated that Commerce must test the reliability of the trading company value in order to determine whether it comprises the best available information for purposes of the FOP calculation. However, Commerce respectfully disagrees with the Court's interpretation of the statute. As we stated in our the Final Results of Redetermination Pursuant to Court Remand of Olympia Indus., Inc. v. United States, Slip. Op. 98–49 (April, 17, 1998), page 6, nothing in the *Lasko* decision alters the statutory mechanism for selection of surrogate values. In *Lasko*, the Court merely recognized that, where the *actual* cost to the producer was a market economy price (and paid in a market economy currency), the *actual* cost to the producer was better information than a surrogate value. *See Lasko*, 43 F.3d at 1446. The selection of surrogate values is governed by section 773(c)(4) of the Act, which, as discussed above, establishes a preference for values from a comparable market economy that is a significant producer of comparable merchandise. Had Congress intended a preference for using import prices into the NME as surrogate values, it could easily have stated this preference.

For these reasons, we continue to apply values from the selected surrogate countries instead of Chinese trading-company values in this review.

Comment 17: Premier Has Acted to the Best of Its Ability

Premier argues that the Department's use of adverse facts available in the *AR Preliminary Results,* because it was unable to supply information from its unaffiliated suppliers, was not appropriate; nor was it consistent with the Department's past treatment. Premier argues that, despite its incomplete questionnaire response, it has cooperated to the best of its ability. Premier notes that it has provided evidence of its attempts to contact its suppliers in order to acquire FOP data and has also documented its suppliers' refusal to provide the requested FOP data. Premier further explains that its suppliers directly compete with Premier for sales of TRBs and that their reluctance to provide a competitor with sensitive production data does not indicate that Premier has acted in a non-cooperative manner.

Premier suggests that because this concrete evidence is now on the record, Premier has proven that it acted to the best of its ability in cooperating with the Department in this review and, therefore, should not be adversely treated in the application of facts available. According to Premier, its actions in this review are identical to those in *TRBs 8* where Premier cooperated with the Department, yet was unable to provide FOP data for all of its sales. The Department should, therefore, not resort to an adverse rate for those sales not covered by the FOP data supplied by Premier. Premier suggests that the Department apply a weighted-average margin calculated from those U.S. sales for which acceptable data was reported by Premier. Alternatively, Premier urges the Department to use the methodology from *TRBs 8* in which the Department applied a simple average of the margins calculated for the other respondent companies.

Petitioner insists that the Department rely upon adverse facts available when substantial data are missing for a particular respondent, as in the case of Premier. Accordingly, petitioner contends that Premier should not be allowed to select and apply FOP data provided by other respondents to those sales which Premier was unable to obtain FOP data. Although it may be correct that there is little variation in factor utilization rates among TRB producers from which the Department has received FOP data, petitioner notes that the Department has never been able to obtain a complete list of TRB producers in China, much less FOP data from all of Premier's suppliers. Therefore, there is no basis for the Department to assume that the similarity it found among the relatively few respondents who submitted FOP data also apply to the entire and largely unknown universe of Chinese TRB producers.

Petitioner further argues that the method accepted by the Department at the preliminary determination allows Premier to select the data it will supply and exclude from the review any suppliers whose costs are higher than those reported by other respondents. Petitioner suggests that the Department should create an incentive for Premier's suppliers to come forward in the future by applying an adverse rate to those sales that are not represented by FOP data. If an adverse rate was applied to these producers, it would encourage them to come forward in the future and supply the factor values. Thus, for those sales in which Premier's supplier did not report FOP data, the Department should apply adverse facts available or, alternatively, use the highest normal value calculated from other respondents' FOP data for that specific model number.

Department's Position: We are continuing to apply a partial adverse facts available rate to Premier's U.S. sales that are lacking corresponding FOP data. Section 776(b) of the Act provides that an adverse inference may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Furthermore, section 351.308 of the Department's regulations states that the Secretary may make determinations on the basis of the facts available on the record if ''an interested party or any other person withholds or fails to provide information requested in a timely manner and in the form required or significantly impedes a proceeding'' (*Final Rule,* 62 FR 27408).

In this case, we determine that Premier has not acted to the best of its ability. Premier was unable to provide letters from all of its suppliers responding to Premier's request for information. Instead, it relies heavily on an affidavit from its marketing executive stating that he had contacted the companies listed in Premier's response. Moreover, Premier submitted contradictory information about its suppliers. Taking into account that this is the eleventh review of the antidumping order on TRBs from the PRC, and that Premier has participated in several reviews, we find that Premier has not acted to the best of its ability.

Furthermore, Premier's suppliers are interested parties, and those who failed to provide factors of production have not acted to the best of their ability. Their failure to provide factors information prevented the Department from calculating dumping margins accurately, thus undermining the antidumping duty law.

For these reasons, the Department finds that applying adverse facts available is appropriate. Therefore, as in the *AR Preliminary* Results, we are applying a rate of 25.56 percent ad valorem to Premier's U.S. sales for which factors data was not provided.

Comment 18: Premier's Marine Insurance and International Freight Expenses

Premier claims that the Department incorrectly deducted amounts for international freight and marine insurance for certain sales in the *AR Preliminary Results.* Upon the Department's request, Premier clarified that certain sales are shipped directly from the supplying factory and that the cost of the shipment is included in the purchase of the goods from the supplier. For these sales, Premier explains that it did not incur expenses for international freight or marine insurance. Accordingly, the Department should correct this error in its final results.

Petitioner argues that Premier's U.S. sales are based on the prices charged by Premier to its U.S. customers rather than on prices paid by Premier to its suppliers. Petitioner contends that the issue of whether Premier reimbursed its suppliers for insurance and freight costs is irrelevant. The fact that these expenses were incurred with respect to these transactions necessitates that these charges be deducted in calculating U.S. price.

Department's Position: We agree with petitioner. Pursuant to section 772(c)(2)(A) of the Act, expenses associated with bringing the subject merchandise from the original place of shipment in the exporting country to the place of delivery in the United States are deducted from EP. Because transportation expenses were incurred on these sales, regardless of where in the distribution channel, we deducted them in calculating EP.

Comment 19: Scrap Reported by Premier's Supplier

Upon the Department's request, Premier clarified the scrap generated by part type for one of its suppliers. Accordingly, the Department should make an adjustment to scrap in its final results of the administrative review with respect to this supplier.

Petitioner contends that the Department cannot rely on information which is submitted after it is clear that

no verification will take place and, therefore, the Department should not make the requested adjustment.

Department's Position: We agree with Premier and have made the necessary adjustments for purposes of our final results. With respect to the petitioner's comment, we note that, although we allowed Premier to submit information after issuing the *AR Preliminary Results,* we did not accept such information on the assumption that a verification would not be taking place. The Department routinely issues final results without verifying information submitted or even expressing that a verification will take place. The criteria in using information when making a determination is not whether the party in question knew that the information would or would not be verified. Where the Department elects not to verify, it will rely on timely submitted information, unless there is evidence that the information is unreliable. In this case, the information submitted by Premier was timely and there is no evidence to suggest the information is unreliable. Thus, it is appropriate to rely on this data in our calculation.

Comment 20: Labor Reported by Premier's Supplier

Premier claims that the Department incorrectly double-counted the unskilled labor reported for one of its suppliers during the administrative review period. Premier explains that it has corrected the data submitted on unskilled labor with respect to this supplier and, therefore, the Department should correct its error for the final results.

Petitioner contends that Premier's argument should be disregarded because it submitted the new labor data after the preliminary results and then waited to identify this error in its case brief. Petitioner argues that this demonstrates Premier's attempt to manipulate record evidence in an effort to reduce its antidumping liability.

Department's Position: We agree with Premier and have made the necessary adjustments for purposes of our final results. At its discretion, the Department may accept corrections of previously submitted data. In this situation, we requested Premier to correct the double-counting error after the *AR Preliminary Results.*

We also note that Premier submitted new information on October 4, 1999. This information has not been accepted because it was neither timely nor requested by the Department.

Comment 21: Luoyang's Market-Economy Steel Purchases

Petitioner argues that the price of steel imported directly by Luoyang is considerably lower than the other market-economy steel purchases Luoyang reported for the administrative review period. The discrepancy in prices suggests that the purchase of imported steel was an isolated transaction and, therefore, should not be regarded as representative of Luoyang's cost of production.

Luoyang contends that the difference in prices simply reflects the variation in the terms and prices offered by its suppliers. Regardless of the documented price variations, Luoyang notes that the Department correctly selected the price paid by Luoyang for steel that it imported directly for purposes of valuing steel used in the production of the subject merchandise.

Department's Position: We agree with Luoyang. Pursuant to section 351.408(c)(1) of the Department's regulations, the Secretary will normally use the actual price paid to value factors purchased directly from market-economy suppliers. Since Luoyang purchased the steel directly from a market-economy country and paid for it in hard currency, we used the actual price it reported for such steel.

Comment 22: Luoyang's Purchase of Market-Economy Steel Pre-dates the POR

Petitioner argues that the Department should not use Luoyang's market-economy purchases of steel that pre-date the administrative review period to value the steel inputs of NME producers. Petitioner contends that it is not clear from record evidence whether this steel was used to produce the subject merchandise during the POR.

Luoyang rebuts that record evidence establishes that it actually used the imported steel to produce the subject merchandise during the POR. Luoyang explains that petitioner has ignored the inherent lead time between the purchase of steel and the actual production of the subject merchandise.

Department's Position: We agree with Luoyang. Record evidence indicates that Luoyang used the steel purchased from the market-economy supplier to produce the subject merchandise during the POR. Accordingly, we have continued to use this transaction to value steel inputs with respect to Luoyang.

Final Results of the Reviews

As a result of our analysis of the comments we received, we determine the following weighted-average margins to exist:

Manufacturer/ exporter	Time period	Margin (percent)
Luoyang	6/1/97–5/31/98	3.68
Premier	6/1/97–5/31/98	24.52
ZCCBC	6/1/98–11/30/98	0.00
Weihai	6/1/98–11/30/98	0.00
PRC Rate	6/1/97–5/31/98	33.18

Parties to the proceeding may request disclosure within five days after the date of publication of this notice. *See* 19 CFR 351.224. The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. With respect to export price sales for these final results, we divided the total dumping margins (calculated as the difference between NV and export price) for each importer/customer by the total number of units sold to that importer/customer. We will direct Customs to assess the resulting per-unit dollar amount against each unit of merchandise in each of that importer's/customer's entries under the relevant order during the review period. Although this will result in assessing different percentage margins for individual entries, the total antidumping duties collected for each importer/customer for the review period will be almost exactly equal to the total dumping margins.

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of TRBs entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the PRC companies named above will be the rates shown above, except that for exporters with *de minimis* rates, *i.e.*, less than 0.50 percent, no deposit will be required; (2) for all remaining PRC exporters, all of which were found not to be entitled to separate rates, the cash deposit will be 33.18 percent (the proceeding's highest margin); (3) for the non-PRC exporter, Premier, the cash deposit rates will be the rates established above; (4) for non-PRC exporters of subject merchandise from the PRC, other than Premier, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties

prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3) or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This administrative review and new shipper review and notice are in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i)(1) of the Act.

Dated: November 5, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–29752 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed Certificate and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) (the ''Act'') authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 99–00007.''

Summary of the Application

Applicant: John L. Koenig, P.O. Box 383, Midlothian, VA 23113.

Contact: John L. Koenig.

Telephone: (804) 320–1254.

Application No.: 99–00007.

Date Deemed Submitted: November 4, 1999.

Members (in addition to applicant): None.

John L. Koenig seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operation.

Export Trade

1. Products

All goods and services.

2. Technology Rights

All intellectual property rights associated with Products, including, but not limited to: patents, trademarks, service marks, copyrights, trade secrets and know-how.

3. Export Trade Facilitation Services (as they relate to the export of Products and Technology Rights)

Export Trade Facilitation Services, including but not limited to: consulting; international market research; marketing and trade promotion; trade show participation; insurance; legal assistance; transportation, trade documentation and freight forwarding; communication and processing of export orders; warehousing; foreign exchange; financing; taking title to goods; professional services in areas of government relations and assistance with state and federal programs and foreign trade and business protocol.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

The proposed Export Trade Certificate of Review would extend antitrust protection to John L. Koenig to conduct the following export trade activities:

1. Provide and/or arrange for the provision of Export Trade Facilitation Services;
2. Engage in promotion and marketing activities as they relate to exporting Products to the Export Markets;
3. Enter into exclusive and non-exclusive export sales agreements with suppliers regarding sales of Products in the Export Markets; such agreements may prohibit suppliers from exporting independently of John L. Koenig;
4. Enter into exclusive and non-exclusive sales and/or territorial agreements with distributors in the Export Markets;
5. Establish the price of Products for sale in the Export Markets;
6. Allocate export orders among suppliers;
7. Exchange information on a one-on-one basis with individual suppliers regarding inventories and near-term production schedules for the purpose of determining the availability of Products for export and coordinating exports with distributors; and
8. Enter into exclusive or non-exclusive licensing agreements for Technology Rights with suppliers, export intermediaries, or other persons in Export Markets.

Dated: November 9, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–29688 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110999A]

Submission for OMB Review; Comment Request.

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Requirements for Certified Observer Contractors of the North Pacific.

Agency Form Number: None.

OMB Approval Number: 0648–0318.

Type of Request: Extension of a currently approved collection.

Burden Hours: 213 new hours (2,106 hours total).

Number of Respondents: 31.

Average Hours per Response: Ranges between 7 minutes and 60 hours depending on requirement.

Needs and Uses: In the North Pacific contractors provide observer services to the Alaskan groundfish fishery. Observers collect basic fishery data such as catch and composition of groundfish, catch and mortality of prohibited species and marine mammals, and other data necessary for stock assessment, conservation, and research. Companies must be certified to provide such services, and new entrants must supply information showing they meet the criteria for certification. Anyone wishing to apply for certification as a observer contractor must submit a narrative application which details how they plan to carry out the responsibilities and duties of an observer contractor. The information collected assist the National Marine Fisheries Service Observer Program to coordinate and conduct effective scheduling of observers for training, briefing and debriefing sessions, maintaining a logistical observer deployment database for recordkeeping purposes, and monitor the ongoing ability of a company to meet the requirements of a certified observer contractor.

Affected Public: Individuals or households and businesses or other for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 724 17th Street, NW, Washington, DC 20503.

Dated: November 5, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–29721 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110899A]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Socioeconomic Panel (SEP).

DATES: A meeting of the SEP will be held beginning at 1:00 p.m. on Thursday, December 2, and will conclude by 12:00 p.m. on Friday December 3, 1999.

ADDRESSES: The meeting will be held at the Tampa Airport Hilton Hotel, 2225 Lois Avenue, Tampa, Florida 33607; telephone 813–877–6688.

FOR FURTHER INFORMATION CONTACT: Antonio B. Lamberte, Economist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, Florida 33619; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The SEP will convene to review Draft Amendment for a Charter Vessel/Headboat Permit Moratorium. This plan amendment proposes to impose a moratorium on the issuance of new permits for reef fish and coastal pelagics charter vessels/headboats. The SEP will prepare a report containing its conclusions and recommendations on the plan amendment. This report will be presented for review to the Council's Standing Scientific and Statistical Committee and Ad Hoc Charter Vessel Advisory Panel at meetings to be held in early January 2000. The SEP report will also be presented to the Council at its meeting on January 17–20, 2000 in Fort Walton Beach, Florida.

Composing the SEP membership are economists, sociologists, and anthropologists from various universities and state fishery agencies throughout the Gulf. They advise the Council on the social and economic implications of certain fishery management measures.

A copy of the agenda can be obtained by calling 813–228–2815. Although other non-emergency issues not on the agendas may come before the SEP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the SEP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

The meeting is open to the public and is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office by November 26, 1999.

Dated: November 8, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–29719 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102799A]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Highly Migratory Species Plan Development Team will hold a work session which is open to the public.

DATES: The work session will be held on Wednesday, December 8, 11 a.m. to 5 p.m.; on Thursday, December 9, from 8 a.m. to 5 p.m.; and on Friday, December 10, from 8 a.m. until business for the day is completed.

ADDRESSES: The work session will be held at NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA; (858) 546–7000.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Larry Six, Executive Director, (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the work session is to begin drafting sections of the fishery management plan and related documents for highly migratory species fisheries of the West Coast. This is the first of several sessions that will be held in 1999 and 2000 to develop documents for Council review and action.

Although non-emergency issues not contained in this agenda may come before this Team for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: November 3, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–29720 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110599C]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Marine Reserves and Dolphin/Wahoo Committees, and joint meetings of its Calico Scallop, Snapper Grouper and Golden Crab Committees and advisory panels (AP). The Red Drum Committee will meet jointly with the Red Drum Advisory Panel, the North Carolina Marine Fisheries Commission and Atlantic States Marine Fisheries Commission South Atlantic Board. There will also be a Council Session.

DATES: The meetings will be held from November 29 - December 3, 1999. See SUPPLEMENTARY INFORMATION for specific dates and times.

ADDRESSES: The meetings will be held at the Blockade Runner Hotel, 275 Waynick Blvd., Wrightsville Beach, NC 28480; telephone: (1–800) 541–1161 or (910) 256–2251.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571–4366; fax: (843) 769–4520; email: kim.iverson@noaa.gov

SUPPLEMENTARY INFORMATION:

Meeting Dates

November 29, 1999, 1:30 p.m. - 5:00 p.m.—Joint Marine Reserves Committee and Advisory Panel meeting;

The Marine Reserves Committee and Advisory Panel will review, revise and approve the Marine Reserves Discussion Document and review and approve the draft Memorandum of Understanding (MOU) with Gray's Reef National Marine Sanctuary. *November 30, 1999, 8:30 a.m. - 12:00 noon*—Joint Calico Scallop Committee and Advisory Panel meeting;

The Calico Scallop Committee and Advisory Panel will develop Maximum Substainable Yield (MSY) measures, revise vessel monitoring system (VMS) measures and approve the fishery management plan (FMP).

November 30, 1999, 1:30 p.m. - 5:00 p.m.—Snapper Grouper Committee and Advisory Panel meeting;

The committee and advisory panel will review the Stock Assessment and Fishery Evaluation (SAFE) report, develop recommendations on Georgia's Special Management Zone (SMZ) request and other framework actions as appropriate. The committee will also develop recommendations for approval of Amendment 12, discuss extending the emergency rule on red porgy and discuss the need for a follow-up amendment to the Emergency Action implementing permit reapplication.

December 1, 1999, 8:30 a.m. - 12:00 noon—Joint Red Drum Committee and Advisory Panel, North Carolina Marine Fisheries Commission, and ASMFC South Atlantic Board;

The committees will address the red drum stock assessment report and discuss the status of the stock and future management actions.

December 1, 1999, 1:30 p.m. - 4:30 p.m.—Golden Crab Committee and Advisory Panel meeting;

The committee and advisory panel will review options and develop recommendations for Amendment 1.

December 2, 1999, 8:30 a.m. - 10:30 a.m.—Dolphin/Wahoo Committee;

The committee will review Gulf of Mexico and Caribbean Fishery Management Council actions and discuss modifications to the draft FMP as appropriate.

December 2, 1999, 10:30 a.m. - 5:00 p.m.—Council Session;

From 10:45 - 11:00, the Council will hear the Golden Crab Committee report and approve Amendment 1 for public hearing.

From 11:00 a.m. - 12:00 noon, the Council will hear the Snapper Grouper Committee report.

As part of the Snapper Grouper Committee meeting, beginning at 11:00 a.m., the Council will take public comment on the Georgia Special Management Zone (SMZ) Request, other potential framework actions and extending the emergency rule on the closure of the red porgy fishery. Immediately following public comment, the Council will make a decision on these issues. The Council will make a decision on approving Snapper Grouper Amendment 12 and make a decision on the need for a follow-up amendment to Emergency Action implementing permit reapplications.

From 1:30 p.m. - 2:00 p.m., the Council will hear the Calico Scallop Committee report after taking public comment on establishing MSY and revising the VMS measures for the Calico Scallop FMP at 1:30 p.m. The

Council will finalize and approve the FMP for resubmission to the Secretary of Commerce.

From 2:00 p.m.- 2:30 p.m., the Council will hear the Marine Reserves Committee report and approve the revised Marine Reserves Discussion Document and MOU with the Gray's Reef National Marine Sanctuary.

From 2:30 p.m. - 2:45 p.m., the Council will hear the Dolphin/Wahoo Committee report.

From 2:45 p.m. - 3:15 p.m., the Council will hear the Red Drum Committee report.

From 3:15 p.m. - 5:00 p.m., the Council will hear Habitat related reports.

December 3, 1999, 8:30 a.m. - 12:00 noon—Council Session;

The Council will hear a report on the joint Scientific and Statistical Committee and the Bycatch Reduction Device (BRD) AP meeting and take necessary action; a briefing report on Economic Impact Assessment Guidelines; an update on Atlantic Coast Cooperative Statistics Program; hear NMFS reports on the 1999/2000 Mackerel Framework; Mackerel Amendment 9 final rule; Sustainable Fisheries Act final rule; greater amberjack trip limit resubmittal and the Comprehensive Habitat Amendment final rule. The Council will also hear Status Reports on landings for Atlantic king mackerel, Gulf king mackerel (eastern zone), snowy grouper & golden tilefish, wreckfish, greater amberjack and South Atlantic octocorals. The Council will also hear agency and liaison reports and discuss other business and upcoming meetings.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by November 19, 1999.

Dated: November 9, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–29773 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public Telecommunications Facilities Program Grant Monitoring

ACTION: Proposed collection; comments requested.

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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A).

DATES: Written comments must be submitted on or before January 14, 2000.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5027, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Clifton Beck, NTIA, Room H–4888, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of the Public Telecommunications Facilities Program is to assist, through matching funds, in the planning and construction of public telecommunications facilities in order to achieve the following objectives:

- Extend delivery of public telecommunications services to as many citizens in the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies;
- Increase public telecommunications services and facilities available to, operated by, and owned by minorities and women; and
- Strengthen the capability of existing public radio and television stations to provide public telecommunications services to the public.

II. Method of Collection

The reporting requirements associated with this request have been reduced by 10% from the previous request approved by OMB in 1996 through the elimination of the requirements for initial liens and insurance certificates. The collection continues to be by mail. Reports submitted by the grantees include:

- Construction schedule/planning timetable (one time)
- Performance reports (quarterly)
- Close-out materials after completion of the project (one time)
- Annual reports for the duration of the government's interest in the equipment (annually for ten-year period)

III. Data

OMB Number: 0660–0001.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Public Telecommunications Facilities Program grant recipients (who may be non-profit corporations, public and private universities and colleges, state and local government agencies).

BURDEN HOURS CALCULATIONS/REPORTING

Requirement	Hours grantee	Number of grantees	Burden hours
Construction Schedule/Planning Timetable	10	150	1,500
Performance Reports	(1)	350	1,400
Close-outs	24	130	3,120
Draft Planning Report	40	10	400
Final Planning Report	10	10	100
Annual Reports	1	1,300	1,300

BURDEN HOURS CALCULATIONS/REPORTING—Continued

Requirement	Hours grantee	Number of grantees	Burden hours
Total			7,820

[1] 1×4/year.

Estimated Total Annual Cost to the Public: Cost to respondents is consistent with their normal administrative overhead. Respondents will not have to purchase equipment or material to provide information.

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; (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 the notice will be summarized and/or included in the request for OMB approval of the information collection; they also will become a matter of public record.

Dated: November 8, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–29629 Filed 11–12–99; 8:45 am]

BILLING CODE 3510–60–P

CONSUMER PRODUCT SAFETY COMMISSION

Request for Comments Concerning Proposed Extension of Approval of a Collection of Information—Safety Standard for Walk-Behind Power Lawn Mowers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed request for an extension of approval of a collection of information from manufacturers and importers of walk-behind power lawn mowers. This collection of information consists of testing and recordkeeping requirements in certification regulations implementing the Safety Standard for Walk-Behind Power Lawn Mowers (16 CFR part 1205). The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from the Office of Management and Budget.

DATES: The Office of the Secretary must receive written comments not later than January 14, 2000.

ADDRESSES: Written comments should be captioned ''Walk-Behind Power Lawn Mowers'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the proposed extension of approval of the collection of information, or to obtain a copy of 16 CFR part 1205, call or write Linda L. Glatz, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0416, extension 2226.

SUPPLEMENTARY INFORMATION: In 1979, the Commission issued the Safety Standard for Walk-Behind Power Lawn Mowers (16 CFR part 1205) under provisions of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*) to eliminate or reduce risks of amputations, avulsions, lacerations, and other serious injuries which have resulted from the accidental contact of some part of an operator's body with the rotating blade of a power lawn mower. The standard contains performance and labeling requirements for walk-behind power lawn mowers to address risks of blade-contact injuries.

A. Certification Requirements

Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, importers, and private labelers of a consumer product subject to a consumer product safety standard to issue a certificate stating that the product complies with all applicable consumer product safety standards. Section 14(a) of the CPSA also requires that the certificate of compliance must be based on a test of each product or upon a reasonable testing program.

Section 14(b) of the CPSA authorizes the Commission to issue regulations to prescribe a reasonable testing program to support certificates of compliance with a consumer product safety standard. Section 16(b) of the CPSA (15 U.S.C. 2065(b)) authorizes the Commission to issue rules to require that firms ''establish and maintain'' records to permit the Commission to determine compliance with rules issued under the authority of the CPSA.

The Commission has issued regulations prescribing requirements for a reasonable testing program to support certificates of compliance with the standard for walk-behind power mowers. These regulations also require manufacturers, importers, and private labelers of walk-behind power mowers to establish and maintain records to demonstrate compliance with the requirements for testing to support certification of compliance. 16 CFR part 1205, Subpart B.

The Commission uses the information compiled and maintained by manufacturers and importers of walk-behind power mowers to protect consumers from risks of injuries associated with walk-behind power lawn mowers. More specifically, the Commission uses this information to determine whether the mowers they produce and import comply with the applicable standard. The Commission also uses this information to obtain corrective actions if walk-behind power mowers fail to comply with the standard in a manner which creates a substantial risk of injury to the public.

The Office of Management and Budget (OMB) approved the collection of information requirements for walk-behind mowers under control number 3041–0091. OMB's most recent extension of approval will expire on January 31, 2000. The Commission proposes to request an extension of approval without change for these collection of information requirements.

B. Estimated Burden

The Commission staff estimates that about 20 firms are subject to the testing and recordkeeping requirements of the certification regulations. The Commission staff estimates further that the annual testing and recordkeeping burden imposed by the regulations on each of these firms on average is approximately 390 hours. Thus, the total annual burden imposed by the certification regulations on all manufacturers and importers of walk-behind power mowers is about 7,800 hours.

The Commission staff estimates that the hourly wage for the time required to perform the required testing and to maintain the required records is about $21.84, and that the annual total cost to the industry is approximately $170,000.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
—Whether the estimated burden of the proposed collection of information is accurate;
—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: November 8, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–29631 Filed 11–12–99; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form Numbers, and OMB Number: Defense Federal Acquisition Regulations Supplement (DFARS) Part 242, Contract Administration, Related Clauses in DFARS Part 252 and Related Forms in DFARS 253; DD Forms 375, 375C, and 1659; OMB Number 0704–0250.

Type of Request: Extension.

Number of Respondents: 54,215.

Responses Per Respondent: 1.6 (average).

Annual Responses: 86,215.

Average Burden Per Response: 3.1 hours (average).

Annual Burden Hours: 268,795.

Needs and Uses: The Department of Defense needs this information to perform contract administration functions. Contract administration offices use the information required by DFARS Subpart 242.11, and submitted on DD Forms 375 and 375C, to determine contractor progress and to identify any factors that may delay contract performance. Administrative contracting officers use the information required by DFARS Subpart 242.73 to determine the allowability of insurance/pension costs under Government contracts. Contract administration offices and transportation officers use the information required by DFARS 252.242–7003, and submitted on DD Form 1659, in providing Government bills of lading to contractors. Contracting officers use the information required by DFARS 252.242–7004 to determine if contractor material management and accounting systems conform to established DoD standards.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: November 8, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–29691 Filed 11–12–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical program of the Uniformed Services; (CHAMPUS); Fiscal Year 2000 DRG Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice describes the changes made to the TRICARE/CHAMPUS DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS). It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios and the Internet address for accessing the updated adjusted standardized amounts, DRG relative weights, and beneficiary cost-share per diem rates to be used for FY 2000 under the TRICARE/CHAMPUS DRG-based payment system.

EFFECTIVE DATES: The rates, weights and Medicare PPS changes which affect the TRICARE/CHAMPUS DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 1999.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238. The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Medical Benefits and Reimbursement Systems, TMA, telephone (303) 676–3627. To obtain copies of this document, see the **ADDRESSES** section above. Questions regarding payment of specific claims under the TRICARE/CHAMPUS DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863), October 22, 1990 (55 FR 42560), and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing

the use of DRGs by TRICARE/CHAMPUS, is that the TRICARE/CHAMPUS DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE/CHAMPUS system will follow the same rules that apply to the Medicare PPS. HCFA publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the TRICARE/CHAMPUS DRG-Based Payment System

Following is a discussion of the changes the Health Care Financing Administration (HCFA) has made to the Medicare PPS that affect the TRICARE/CHAMPUS DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE/CHAMPUS DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE/CHAMPUS DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE/CHAMPUS system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and we have implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 1995, the CHAMPUS grouper hierarchy logic was changed so the age split (age <29 days) and assignments to MDC 15 occur before assignment of the PreMDC DRGs.

This resulted in all neonate tracheostomies and organ transplants to be grouped to MDC 15 and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS grouper hierarchy logic was changed to move DRG 103 to the PreMDC DRGs and to assign patients to PreMDC DRGs 480, 103 and 495 before assignment to MDC 15 DRGs and the neonatal DRGs. Grouping for all other DRGs under the TRICARE/CHAMPUS system is identical to the Medicare PPS.

For FY 2000, HCFA will implement classification changes, including surgical hierarchy changes. The CHAMPUS Grouper will incorporate all changes made to the Medicare Grouper.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE/CHAMPUS will continue to use the same wage index amounts used for the Medicare PPS. In addition, TRICARE/CHAMPUS will duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board.

C. Hospital Market Basket

TRICARE/CHAMPUS will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS according to HCFA's July 30, 1999, final rule.

D. Outlier Payments

Since TRICARE/CHAMPUS does not include capital payments in our DRG-based payments, we will use the fixed loss cost outlier threshold calculated by HCFA for paying cost outliers in the absence of capital prospective payments. For FY 2000, the fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for IDME plus a fixed dollar amount. thus, for FY 2000, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE/CHAMPUS DRG base payment rate (wage adjusted) for he DRG plus the IDME payment plus $12,827 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

E. Blood Clotting Factor

TRICARE/CHAMPUS will add HCPCS code J7191 (clotting factor, porcine) to the list of covered blood clotting factor for hemophilia patients and adopt changes to the payment rates as outlined in HCFA's July 30, 1999, final rule, effective for admissions on or after October 1, 1999.

F. Hospitals Excluded From the Prospective Payment System

TRICARE/CHAMPUS will adopt the changes outlined in HCFA's July 30, 1999, final rule as they apply to hospitals and units excluded from the Medicare PPS.

II. Cost to Charge Ratio

For FY 2000, the cost-to-charge-ratio used for the TRICARE/CHAMPUS DRG-based payment system will be 0.5429, which is increased to 0.5489 to account for bad debts. This shall be used to calculate the adjusted standardized amounts and to calculate cost outlier payments, except for children's hospitals. for children's hospital cost outliers, the cost-to-charge ratio used is 0.6004.

III. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at *www.tricare.osd.mil* under the heading TRICARE Provider Information. Table 1 provides the ASA rates and Table 2 provides the DRG weights to be used under the TRICARE/CHAMPUS DRG-based payment system during FY 2000 and which is a result of the changes described above. The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR Part 199.

Dated: November 8, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–29693 Filed 11–12–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Executive Committee Meeting of the Defense Advisory Committee on Women in the Service (DACOWITS)

AGENCY: Department of Defense, Advisory Committee on Women in the Services.

ACTION: Notice.

SUMMARY: Pursuant Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming Quarterly Executive Committee Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the Executive Committee Meeting is to provide transitional training to the incoming 2000 Executive Committee members and an Awards Presentation for the 1999 Executive Committee members. The Awards presentation hosted by the Secretary of Defense is opened to the public. All other portions are for training only and are not open to the public.

DATES: December 6, 1999, 8:30 a.m.–4:00 p.m.

ADDRESSES: SECDEF Conference Room 3E869, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Susan E. Kolb, ARNGUS, DACOWITS and Military Women Matters, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122.

SUPPLEMENTARY INFORMATION: Meeting agenda:

Monday December 6, 1999.

TIME

1:45 p.m.

EVENT

Executive Committee Awards Presentation (Secretary of Defense Conference—3E869, Please be seated by 1:30 p.m.)

Dated: November 8, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD

[FR Doc. 99–29692 Filed 11–12–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Draft Programmatic Environmental Impact Statement on Transportable Treatment Systems for Non-Stockpile Chemical Warfare Materiel

AGENCY: Department of the Army, DoD.

ACTION: Public comment meeting announcement.

SUMMARY: This announcement provides the dates, times, and locations of regional public meetings to be held in the vicinity of Anchorage Alaska; Salt Lake City, Utah; Edgewood, Maryland; San Antonio, Texas; Indianapolis, Indiana; Huntsville, Alabama; Alexandria, Louisiana; Santa Rosa, California; and Tampa, Florida. The purpose of these meetings is to solicit public comments on the Draft Programmatic Environmental Impact Statement (DPEIS) on Transportable Treatment Systems for Non-Stockpile Chemical Warfare Materiel. A notice of availability of the DPEIS was published in the **Federal Register** (64 FR 56774) on October 21, 1999. The PEIS is being prepared in accordance with the National Environmental Policy Act, as amended.

DATES: Public comments on the information provided in the DPEIS must be submitted by February 4, 2000 to ensure consideration in the Final PEIS.

ADDRESSES: Questions about the meetings, requests for information, or requests for a bound copy of the document or a CD–ROM should be directed to: Program Manager for Chemical Demilitarization, ATTN: SFAE–CD–NP (Mr. John K. Gieseking/PEIS), Aberdeen Proving Ground, Maryland 21010–4005.

FOR FURTHER INFORMATION CONTACT: Mr. John K. Gieseking, Office of the Program Manager for Chemical Demilitarization, ATTN: SFAE–CD–NP, Aberdeen Proving Ground, Maryland 21010–4005 or by calling 1–800–488–0648.

SUPPLEMENTARY INFORMATION: To facilitate public comment on the DPEIS, the Army will hold regional public meetings according to the following dates, times, and locations:

Alaska: November 9, 1999, 2:00 p.m. to 8:00 p.m., Sheraton Anchorage Hotel, 401 East 6th Avenue, Anchorage, Alaska;

Utah: November 16, 1999, 2:00 p.m. to 9:00 p.m., Holiday Inn Airport, 1659 West Temple, Salt Lake City, Utah;

Maryland: November 23, 1999, 2:00 p.m. to 8:00 p.m., Richlin Ballroom, 1700 Van Bibber Road, Edgewood, Maryland;

Texas: November 30, 1999, 5:00 p.m. to 9:00 p.m., Sam Houston Room—Officer's Club, Fort Sam Houston, Texas;

Indiana: December 6, 1999, 2:00 p.m. to 8:00 p.m., Embassy Suites Downtown, 110 West Washington Street, Indianapolis, Indiana;

Alabama: December 14, 1999, 6:00 p.m. to 9:00 p.m., Holiday Inn Research Park, 5903 University Drive, Huntsville, Alabama;

Louisiana: January 4, 2000, 6:00 p.m. to 9:00 p.m., Holiday Inn—Convention Center, 701 Fourth Street, Alexandria, Louisiana;

California: January 11, 2000, 2:00 p.m. to 8:00 p.m. Double Tree Hotel, Sonoma County, Double Tree Drive, Rohnert Park, Santa Rosa California;

Florida: January 19, 2000, 6:00 p.m. to 9:00 p.m., Holiday Inn City Centre, 111 West Fortune Street, Tampa, Florida.

These meetings will utilize a public availability session format where the public can obtain information, discuss concerns, make comments, and meet with Army and other Government representatives on a one-on-one basis. The preceding meeting dates, times, and locations will also be announced in appropriate news media.

E-mail comments or requests should be directed to: john.gieseking@pmcd.apgea.army.mil. The DPEIS can also be accessed via the following World Wide Web at site: *http://www-pmcd.apgea.army.mil/nscmp/index.html.*

Dated: November 8, 1999.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA, (I&E).

[FR Doc. 99–29717 Filed 11–12–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patent for non-exclusive, partially exclusive or exclusive licensing. The listed patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

This patent covers a wide variety of technical arts including: A Warhead for Air Defense Missiles.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Public Law 99–502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish the license the U.S. patent listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by this patent.

Title: Flat-Sided Warhead.

Inventors: George T. Boswell and William G. Rueb.

Patent Number: 5,965,838.

Issued Date: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Norma Cammaratta, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Adelphi, MD 20783–1197 tel: (301) 394–2952; fax: (301) 394–5818.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–29730 Filed 11–12–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patents for Non-Exclusive, Exclusive, or Partially-Exclusive Licensing

AGENCY: U.S. Army Research Laboratory, Adelphi, Maryland.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of the following U.S. patent for non-exclusive, partially exclusive or

exclusive licensing. The listed patent has been assigned to the United States of America as represented by the Secretary of the Army, Washington, DC.

This patent covers a wide variety of technical arts including: A Hypereutectoid and Hypoeutedic Binary Urandium-Vandaium Alloy and a Specimen Holder for a Thermal Mechanical Testing Machine.

Under the authority of Section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and Section 207 of Title 35, United States Code, the Department of the Army as represented by the U.S. Army Research Laboratory wish to license the U.S. patent listed below in a non-exclusive, exclusive or partially exclusive manner to any party interested in manufacturing, using, and/or selling devices or processes covered by this patent.

Title: Hypereutectoid and Hypoeutectic Binary Uranium-vanadium Alloys.

Inventor: Michael R. Staker.

Patent Number: 5,963,777.

Issued Date: October 5, 1999.

Title: Specimen Holder for Thermal Mechanical Testing Machine.

Inventors: Kenneth P. Ryan, Jr., Donald Hassett and Ernest Chin.

Patent Number: 5,965,823.

Issued Date: October 12, 1999.

FOR FURTHER INFORMATION CONTACT: Michael Rausa, Technology Transfer Office, AMSRL–CS–TT, U.S. Army Research Laboratory, Aberdeen Proving Ground, MD 21005–5055 tel: (410) 278–5028; fax: (410) 278–5820.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–29729 Filed 11–12–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

In addition, the Department of the Army is amending the systems of records notices identifiers for two notices. They are 'A0001 DAPE-ARI' to be changed to 'A0001 TAPC-ARI'; and 'A0602-DAPE-ARI' to be changed to 'A0602 TAPC-ARI'. Both of these systems of records notices were previously published on October 18, 1999, at 64 FR 56196.

DATES: This proposed action will be effective without further notice on December 15, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC-PDD-RP, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices 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 specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments 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 a new or altered system report.

Dated: November 4, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0040–66b DASG

SYSTEM NAME:

Health Care and Medical Treatment Record System *(August 1, 1997, 62 FR 41373).*

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Replace 'dependents' with 'family members'.

CATEGORIES OF RECORDS IN THE SYSTEM:

Add 'Sponsor's Social Security Number' and 'preventive medicine HIV patient files' to entry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 1071-1085; 50 U.S.C. Supplement IV, Appendix 454, as amended; 42 U.S.C. 11131-11152; E.O. 9397 (SSN); DoD Instruction 6015.23, Delivery of Healthcare at Military Treatment Facilities (MTFs); DoD Directive 6040.37, Confidentiality of Medical Quality Assurance (QA) Records; DoD 6010.8-R, Civilian Health and Medical Program of the Uniformed Service (CHAMPUS); Army Regulation 40-66, Medical Record Administration and Health Documentation.'

* * * * *

A0040–66b DASG

SYSTEM NAME:

Health Care and Medical Treatment Record System.

SYSTEM LOCATION:

Army Medical Department facilities and activities. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members of the Armed Forces (both active and inactive); family members; civilian employees of the Department of Defense; members of the U.S. Coast Guard, Public Health Service, and Coast and Geodetic Survey; cadets and midshipmen of the military academies; employees of the American National Red Cross; and other categories of individuals who receive medical treatment at Army Medical Department facilities/activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, sponsor's Social Security Number, medical records (of a permanent nature) used to document health; psychological and mental hygiene consultation and evaluation; medical/dental care and treatment for any health or medical condition provided an eligible individual on an inpatient and/or outpatient status to include but not limited to: health; clinical (inpatient); outpatient; dental; consultation; and procurement and separation x-ray record files; and Human Immunodeficiency Virus (HIV) blood sampling results to identify Acquired Immune Deficiency Syndrome (AIDS).

Subsidiary medical records (of a temporary nature) are also maintained to support records relating to treatment/observation of individuals. Such records include but are not limited to: social work case files, preventive medicine HIV patients files, inquiries/complaints about medical treatment or services rendered by the medical treatment facility, and patient treatment x-ray and index files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 1071-1085; 50 U.S.C. Supplement IV, Appendix 454, as amended; 42 U.S.C. 11131-11152; E.O. 9397 (SSN); DoD Instruction 6015.23, Delivery of Healthcare at Military Treatment Facilities (MTfs); DoD Directive 6040.37, Confidentially of Medical Quality Assurance (QA) Records; DoD 6010.8-R, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Army Regulation 40-66, Medical Record Adminiistration and Health Documentation.

PURPOSE(S):

To provide health care and medical treatment of individuals; to establish tuberculosis/tumor/cancer/Human Immunodeficiency Virus (HIV) registries; for research studies; compilation of statistical data and management reports; to implement preventive medicine, dentistry, and communicable disease control programs; to adjudicate claims and determining benefits; to evaluate care rendered; determine professional certification and hospital accreditation; and determine suitability of persons for service or assignment.

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:

Information may be disclosed to the Department of Veterans Affairs to adjudicate veterans' claims and provide medical care to Army members.

National Research Council, National Academy of Sciences, National Institutes of Health, Armed Forces Institute of Pathology, and similar institutions for authorized health research in the interest of the Federal Government and the public. When not essential for longitudinal studies, patient identification data shall be eliminated from records used for research studies. Facilities/activities releasing such records shall maintain a list of all such research organizations and an accounting disclosure of records released thereto.

To local and state government and agencies for compliance with local laws and regulations governing control of communicable diseases, preventive medicine and safety, child abuse, and other public health and welfare programs.

Third party payers per 10 U.S.C. 1095 as amended by Pub. L. 99–272, and guidance provided to the DoD health services by DoD Instruction 6015.23, for the purpose of collecting reasonable inpatient/outpatient hospital care costs incurred on behalf of retirees or dependents.

To former DoD health care providers, who have been identified as being the subjects of potential reports to the National Practitioner Data Bank as a result of a payment having been made on their behalf by the U.S. Government in response to a malpractice claim or litigation, for purposes of providing the provider an opportunity, consistent with the requirements of DoD Instruction 6025.15 and Army Regulation 40–68, to provide any pertinent information and to comment on expert opinions, relating to the claim for which payment has been made.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

NOTE: Records of identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The 'Blanket Routine Uses' do not apply to these types of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; visible card files; microfiche; cassettes; magnetic tapes/discs; computer printouts; x-ray film preservers.

RETRIEVABILITY:

By patient or sponsor's surname or BY sponsor's Social Security Number.

SAFEGUARDS:

Records are maintained in buildings which employ security guards and are accessed only by authorized personnel having an official need-to-know. Automated segments are protected by controlled system passwords governing access to data.

RETENTION AND DISPOSAL:

Military health/dental and procurement/separation x-ray records are permanent. Clinical (inpatient), outpatient, dental and consultation record files for military members are destroyed after 50-75 years; records pertaining to U.S. Military Academy cadets are withdrawn and retired to the Surgeon, U.S. Military Academy, West Point, NY 10996–1797. Records on civilians and foreign nationals are destroyed after 25 years; except for civilian dental records which are destroyed after 5 years. Records on American Red Cross personnel are withdrawn and forwarded to the American National Red Cross.

All records (except the Military Health/Dental records) which are active while individual is on active duty, then retired with individual's Military Personnel Records Jacket and the procurement/separation x-ray records which are forwarded to the National Personnel Records Center on an accumulation basis) are retained in an active file while treatment is provided and subsequently held for a period of 1 to 5 years following treatment before being retired to the National Personnel Records Center. Subsidiary medical records, of a temporary nature, are normally not retained long beyond termination of treatment; however, supporting documents determined to have significant documentation value to patient care and treatment are incorporated into the appropriate permanent record file.

Disposition of the preventive medicine HIV patient files is pending NARA approval.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Medical Command, ATTN: MCHO-CL-P, Suite 13, 2050 Worth Road, Fort Sam Houston, TX 78234–6010.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the medical facility where treatment was provided. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

Red Cross employees may write to the Medical Officer, American National Red Cross, 1730 E Street, NW, Washington, DC 20006.

For verification purposes, the individual should provide the full name, Social Security Number of

sponsor, and current address and telephone number. Inquiry should include name of the hospital, year of treatment and any details which will assist in locating the records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the medical facility where treatment was provided. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

Red Cross employees may write to the Medical Officer, American National Red Cross, 1730 E Street, NW, Washington, DC 20006.

For verification purposes, the individual should provide the full name, Social Security Number of sponsor, and current address and telephone number. Inquiry should include name of the hospital, year of treatment and any details which will assist in locating the records.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Subject individual, personal interviews and history statements from the individuals; abstracts or copies of pertinent medical records; examination records of intelligence, personality, achievement, and aptitude; reports from attending and previous physicians and other medical personnel regarding results of physical, dental, and mental examinations, treatment, evaluation, consultation, laboratory, x-ray and special studies and research conducted to provide health care and medical treatment; and similar or related documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–29391 Filed 11–15–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Announcement of Public Hearing Date on a Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the San Timoteo Creek Flood Control Project, Reach 3B, in San Bernardino County, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice (announcement of public hearing date).

SUMMARY: The Draft EIS/EIR was released for public review on October 5, 1999. The Environmental Protection Agency has published a Notice of Availability of the DEIS/EIR in the **Federal Register** on October 15, 1999. The public review of the Draft EIS/EIR ends on November 29, 1999. The general study area for the San Timoteo Creek Reach 3B Project includes the area within the existing 100-year floodplain and stretches from its downstream (northwestern) limit of Barton Road, near the City of Loma Linda, through an unicorporated area of San Bernardino County, to its upstream (southeastern) limit of Alessandro Road, which lies in the City of Redlands. Reach 3B extends for a total length of approximately 3.9 miles.

ADDRESSES: Commander, U.S. Army Corps of Engineers, Los Angeles District, Environmental Design Section, P.O. Box 532711, Los Angeles, CA 90053–2325.

FOR FURTHER INFORMATION CONTACT: Ms. Joy Jaiswal, Technical Manager, phone (213) 452–3871.

SUPPLEMENTARY INFORMATION:

1. Background

The primary purpose of the Reach 3B project is to provide flood control and debris and sediment trapping within the study area and in the downstream areas. Because facilities within Reaches 1, 2, 3A, and 3B were initially designed for flood control purposes, completion of flood control facilities along Reach 3B is needed to provide adequate flood protection of land and structures within the existing 100-year floodplain of the San Timoteo Creek study area. Construction of 3.1 miles of San Timoteo Creek extending from the Santa Ana River to just upstream of Barton Road, designated as Reach 1,2 and 3A have been completed. Public raised concerns about aesthetics of the creek, wildlife movement, impacts to vegetation, recreational trail usage and groundwater recharge. Therefore, the San Bernardino County Board of Supervisors requested the USACOE study an alternative to the authorized project for Reach 3B (proposed construction) that would incorporate the public's concerns. The Corps redesigned the Authorized plan of Reach 3B to incorporate public concerns.

2. Proposed Action

Construction of a flood control channel at San Timoteo Creek, Reach 3B upstream of Barton Road.

3. Alternatives

The DEIS/EIR evaluates the alternatives carried forward for detailed environmental analysis. In general, the major differences among Alternatives A, B, C, D, and the Authorized Plan involve the length of the transition channel, and the number and dimensions of sediment basins and drop structures. Alternative E also incorporates the use of sediment basins, but differs from the other alternatives because levees and a spillway would be required to contain and direct flows into the downstream structure near Barton Road. Description and impacts related to the future maintenance for the life of the project are included in the DEIS/EIR.

Alternative A

- 17-in-channel sediment basins, drop structures.
- Total length of sediment basins and transition is approximately 13,800 feet, extending 3,000 feet upstream of San Timoteo Canyon Road.
- Sediment basins would be 8.5 feet below the existing channel invert.
- Stabilization of banks with soil cement and concrete with 2:1 slope.
- Natural bottom channel.
- Parapet walls.
- Inlet structure.
- Access/recreational trail.
- Environmental corridor.
- Limited fencing.
- Replacement of Beaumont Avenue Bridge.
- Recreational opportunities.

Alternative B—The Preferred Alternative

- Recommended plan consists of 18 sediment basins and drop structures instead of 17 sediment basins. Other features are similar to Alternative A. Which includes concrete transitional channel, drop structure, stabilization of side slopes, inlet construction, maintenance access road/trail easement, access ramps, environmental corridor, fencing replacement of Beaumont Avenue Bridge, utility relocations, side drain connections, and recreational opportunities.

• Entire length of project would be 14,300 feet, extending 4,000 feet upstream of San Timoteo Canyon Road.
• Construction of 18 Sediment basins.
• Depth of sediment basins would range from 4.8 feet to 12 feet below the channel invert.

Alternative C

• Alternative C is similar to Alternatives A and B.
• 22 sediment basins and drop structures.
• Total length 16,700 feet, extending 6,500 feet upstream of San Timoteo Canyon Road.
• Basin depths would be 8.0 feet.

Alternative D

• 52 sediment basins and drop structures.
• Sediment basin depth about 4.8 feet.
• Total length—18,900 feet extending 11,000 feet upstream of San Timoteo Canyon Road.

Alternative E

• Involves acquiring the land within the 100-year floodplain (within the study area) to allow San Timoto Creek to overflow onto its natural floodplain during storm events.
• Acquiring the floodplain right-of-way for approximately four miles would require approximately 300 acres, including approximately 20 homes, a historic structure, and commercial uses.
• Eight sediment basins with drop structures.
• Total length of alternative—13,400 feet.
• Levees would begin at San Timoteo Canyon Raod and gradually increase in height from 0–35 feet, ending at a spillway near California Street.

Authorize Plan

• Maintenance access of road/trail easement; environmental corridor, Beaumont Avenue Bridge replacement, utility relocations, side drain connections of the sediment basins.
• Eight sediment basin with drop structures.
• Total length—19,100 feet.
• Existing San Timoteo Canyon Road remain in place.
• No replacement of Beaumont Avenue bridge.
• Basins would be excavated 6 feet below the existing channel invert-total depth of 12 feet.

No Action

No construction of existing channel along Reach 3B.

4. The USACOE and San Bernardino County, the local sponsor, will consider public concerns on the Draft EIS/EIR. Summary of the Public Hearing and written comment letters and responses will be incorporated in the Final EIS/EIR as appropriate.

5. Time and Location

The Public Hearing is scheduled for November 23, 1999, at 7:00 PM, San Bernardino County Museum, Fisk Room, 2024 Orange Tree Lane, Redlands, California, 92374.

Dated: November 5, 1999.

Charles V. Landry,

Lieutenant Colonel, Corps of Engineers, Deputy District Engineer.

[FR Doc. 99–29732 Filed 11–12–99; 8:45 am]

BILLING CODE 3710–KF–U

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement/Report for the Santa Rosa Ecosystem Restoration Project, City of Santa Rosa, Sonoma County, CA

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: Santa Rosa Creek watershed encompasses approximately 78.6 square miles in Sonoma County, California, and includes most of the City of Santa Rosa. The area of interest includes the approximately 6.5 miles of the Creek from Railroad Street to Laguna de Santa Rosa, which is proposed for restoration. The project also includes construction of a fish passageway along a 1,400-foot portion of Matanzas Creek in downtown Santa Rosa. The Corps has determined that the proposed action may have significant effect on the quality of the human environment. To comply with the requirements of Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, and Environmental Quality regulations (40 CFR Parts 1500–1508), the California Environmental Quality Act (CEQA). The Corps of Engineers (Corps) is required to prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) with the City of Santa Rosa, County of Sonoma, and with Sonoma County Water Agency. The Corps will also prepare a Feasibility Study report.

FOR FURTHER INFORMATION CONTACT: For further information about the project and the alternatives, contact Ms. Elizabeth Dyer of the Plan Formulation Section, U.S. Army Corps of Engineers San Francisco District, 333 Market Street, 717H, CESPN–ET–PF, San Francisco, CA 94105–2197. Phone number (415) 977–8676, Fax: 415–977–8695, Email: edyer@spd.usace.army.mil. Written comments and questions regarding the scoping process or preparation of the EIS/EIR may be directed to Roger Fernwood, U.S. Army Corps of Engineers, San Francisco District, 333 Market Street, 717V, CESPN–ET–PP, San Francisco, CA 94105–2197, (415) 977–8544, Fax: 415–977–8695, Email: rfernwood@spd.usace.army.mil. Mr. Roger Golden is the Project Manager, and can be contacted at U.S. Army Corps of Engineers, San Francisco District, 333 Market Street, 822D, CESPN–PM, San Francisco, CA 9405–2197, (415) 977–8703, Fax: 415–977–8431, Email: rgolden@spd.usace.army.mil.

SUPPLEMENTARY INFORMATION:

1. Authority

Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the California Environmental Quality Act (CEQA). The Corps, City of Santa Rosa, County of Sonoma, and the Sonoma County Water Agency hereby give notice of intent to prepare a joint (EIS/EIR) for the Santa Rosa Creek Ecosystem Restoration Project, Santa Rosa California.

2. Comments/Scoping Meeting

Interested parties are requested to express their views concerning the proposed activity. The public is encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting. To be most helpful, scoping comments should clearly describe specific environmental topics or issues that the commentator believes the document should address. Oral and written comments receive equal consideration. Please address all correspondence, including requests for additional information, to the District Engineer, USAED San Francisco, 333 Market Street, San Francisco, California 94105–2197. A scoping meeting will be held Wednesday, December 8, 1999 at 7:00 p.m. for all interested parties. The meeting will be held in Elsie Allen High School Performing Arts Center, aka The Theater, 599 Bellevue Road, Santa Rosa, California.

3. Availability of EIS/EIR

The EIS/EIR should be available for public review in the winter of 2002.

4. Agencies Supporting Project

The U.S. Army Corps of Engineers, City of Santa Rosa, County of Sonoma, and the Sonoma County Water Agency will be the lead agencies in preparing the combined EIS/EIR. The EIS/EIR will provide an analysis supporting both requirements of NEPA and CEQA in addressing impacts that may result from implementation of the channel widening measures.

5. Purpose and Need for Action

The focus will be on restoring Santa Rosa Creek by returning the channelized creek reaches to more natural geomorphic and ecological form and function and improving water quality, while maintaining existing levels of flood protection. The restoration may benefit steelhead, a listed threatened species, and other aquatic life. The project will be consistent with the Santa Rosa Creek Master Plan which on September 21, 1993 by the City of Santa Rosa, the County of Sonoma, and the Sonoma County Water Agency.

6. Study Area Description

In the City of Santa Rosa Master Plan, the 12.8 mile-long project has been divided into seven reaches, distinguished by vegetation, hydrology, adjacent land use, ownership, channel morphology, and access. Reaches A and B, which are between Highway 12 near Los Alamos Road and E Street, are characterized as natural channel. The vegetation represents a mature, native riparian community. This area is in private property ownership with limited access. Commercial, residential, and undeveloped land uses are located adjacent to the creek. Reaches C, D and E, are between E Street and Piner Creek west of Fulton Road. They are characterized by a relatively steep; trapezoidal shaped channel with grouted rock in Reach C and riprap in Reaches D and E. There is very little riparian vegetation. The Sonoma County Water Agency owns the two maintenance roads on either side. Adjacent land use is commercial, residential, and industrial. The Rural Reaches F and G are between Piner Creek and Laguna de Santa Rosa. A wider and shallower channel with more sediment bars characterizes them, less rip rap (none in Reach G) and some riparian vegetation. There are levees in Reach F and maintenance roads along both sides of the creek in both reaches. The adjacent land use is agriculture and floodplain. The boundaries of the proposed restoration project include part of Reach C (Pierson Street to Dutten Street) and all of Reach D through Reach G. No action is proposed for Reaches A or B except a proposed fish passageway enhancement project, which would be located on Matanzas Creek in the area generally located between Reach B and Reach C.

7. Project Alternatives

Alternatives associated with the Santa Rosa Creek Ecosystem Restoration Project are No-Action and several Action Alternatives. The selected alternatives will be implemented in the project area. It is assumed that the City of Santa Rosa will continue to participate in the National Flood Insurance Program. It is expected that flooding will continue at the same frequency and intensity as it has in the past in areas around Santa Rosa Creek. Habitat values would remain the same.

The Action alternatives are to restore habitat and to improve water quality by implementing one or more of the following measures in the various reaches of the Creek.

Measure 1: Enlarge channel capacity by removing existing grouted riprap, replacing the southern bank with a steeper engineered wall system which will allow for vegetative growth, and by stepping the north bank with a series of retaining walls which will allow for multiple use, pedestrian and maintenance paths. A soft naturalized creek bottom will be vegetated with native riparian grasses, sedges and shrubs. This restoration measure is proposed for sections of creek between Santa Rosa Avenue and Pierson Street.

Measure 2: Enlarge the channel capacity by removing the existing rip rap, laying back the southern bank to a more stable angle, and terracing the northern bank to allow for path installation. The newly constructed channel will be vegetated using native riparian species. The creek bottom will provide a soft meandering low flow channel, which will be shaded and will feature rocks and anchored logs for fish habitat. This restoration measure is proposed for sections of creek between Pierson Street and Piner Creek.

Measure 3: Enlarge channel capacity and expand the existing cross sectional area of the creek by removing existing rip rap, laying back one bank, and excavating the other bank to create vegetated terraces on which paths would be placed. The entire creek channel will be revegetated with native riparian plant materials. This restoration measure is proposed for limited sections of creek between Stony Point Road and Piner Creek.

Measure 4: Increase the channel width by relocating one or both levees away from the creek a total of not more than 100 feet. The creek channel would be re-contoured to create a naturalized meander pattern with riparian plantings throughout. This restoration measure is proposed for sections of creek between Piner Creek and Willowside Road.

Measure 5: The area of riparian vegetation would be expanded by 100 feet or less between Willowside Road and Laguna de Santa Rosa to enhance the riparian vegetation and to allow the development of a meandering low flow channel.

In Measures 1 through 5 above, rocks would be placed in the creek to create pools, riffles, runs and define low flow channel. In addition, anchored logs with root wad exposed to the creek will be installed. These features will enhance the structural diversity of the channel bottom and improve fish habitat.

Measure 6: Restore salmonid spawning access to Matanzas Creek by raising water levels and decreasing velocities throughout the 1,400 linear-foot Matanzas Creek flood control project. The proposed fish way consists of installing inflatable bladders across the bottom of the culvert to create a series of small dams inside the culvert. A trench will be excavated into the splash apron on the downstream side of the culvert to allow access to the fish way. Fish will pass the inflated bladders by swimming or leaping over them and then continue upstream out of the culvert and into Matanzas Creek.

8. Study Process

The Feasibility Study will identify and evaluate measures to restore the creek ecosystem as follows:

Define Existing Conditions and Formulate Alternatives

The future without-project conditions in the study area will be projected. Input will be sought from resource agencies.

Alternative Development

Preliminary alternatives will be developed using hydraulic modeling, economics, and cost analysis.

Detailed Evaluation

Preliminary alternatives will be screened to final alternatives for impact analysis. A draft Fish and Wildlife Coordination Act Report including a Habitat Evaluation Procedure (HEP) will be prepared to help provide the basis for identifying the most cost-effective alternative acceptable to the agencies and community.

Draft Report Preparation

The draft Feasibility Report and Environmental Impact Statement/Report

(DEIS/R) will analyze all reasonable impacts and mitigation, as well as alternatives, and evaluate compliance with federal and state environmental requirements. A formal public review and comment period will be started.

Final Report Preparation

The last phase of the study includes preparing the final Feasibility Report recommending a preferred alternative and completing the final EIS/R, which will respond to all comments on the draft EIS/R

9. Other Environmental Review and Consultation Requirements

The focus of the DEIS/R will be on the restoration of the natural conditions and the construction of a fish passageway. The local sponsors will use the DEIS/R to meet their responsibilities under the California Environmental Quality Act. It may also be used by the North Coast Regional Water Quality Control Board to meet its source of Clean Water Act Section 404 (b) 1 guidelines and responsibilities under the Porter-Cologn Act. Other reviews which the DEIS/R will be used for an information source include the Fish and Wildlife Coordination Act and Endangered Species Act Consultation.

10. DEIS/R Availability

The DEIS/R will be available to the public in summer 2001.

Peter T. Grass,

LTC, EN Commanding.

[FR Doc. 99–29731 Filed 11–12–99; 8:45 am]

BILLING CODE 3710–09–U

DEPARTMENT OF ENERGY

Office of Fossil Energy; Orders Granting, Amending, and Vacating Authorizations To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting, amending and vacating natural gas import and export authorizations. These Orders are summarized in the attached appendix.

These Orders may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853.

They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on November 8, 1999.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

APPENDIX.—ORDERS GRANTING, AMENDING AND VACATING IMPORT/EXPORT AUTHORIZATIONS

[DOE/FE Authority]

Order No.	Date issued	Importer/exporter FE Docket No.	Import volume	Export volume	Comments
1518	10–08–99	Sierra Pacific Power Company 99–71–NG.	95 Bcf		Import from Canada over a two-year term beginning on January 1, 2000, and extending through December 31, 2001.
1519	10–08–99	PG&E Texas Industrial Energy, L.P. 99–68–NG.	300 Bcf		Import and export up to a combined total from and to Mexico beginning on November 1, 1999, and extending through October 31, 2001.
1520	10–08–99	Onyx Gas Marketing Company, L.C. 99–74–NG.	110 Bcf		Import and export up to a combined total from and to Mexico beginning on October 8, 1999, and extending through October 7, 2001.
1521	10–14–99	Tenaska Marketing Ventures 99–67–NG.	400 Bcf		Import and export up to a combined total from and to Canada and Mexico beginning on the date of first delivery.
1522	10–14–99	Androscoggin Energy LLC. 99–69–NG.	5 Bcf		Import and export up to a combined total from and to Canada beginning on November 1, 1999, and extending through October 31, 2001.
1523	10–14–99	Jonan Gas Marketing Inc. 99–73–NG.	100 Bcf		Import and export up to a combined total from and to Canada beginning on the date of first delivery.
1352–A	10–14–99	Androscoggin Energy LLC 97–94–NG.			Long-term import amended to replace one supplier and adds import point flexibility.
1524	10–14–99	Texex Energy partners, LTD. 99–77–NG.	73 Bcf		Import and export up to a combined total from and to Canada and Mexico beginning October 15, 1999, and extending through October 14, 2001.
1525	10–18–99	DEK Energy Company 99–76–NG	73 Bcf		Import from Canada beginning on November 1, 1999, and extending through October 31, 2001.

APPENDIX.—ORDERS GRANTING, AMENDING AND VACATING IMPORT/EXPORT AUTHORIZATIONS—Continued

[DOE/FE Authority]

Order No.	Date issued	Importer/exporter FE Docket No.	Import volume	Export volume	Comments
1526	10–18–99	Western Gas Resources, Inc. 99–72–NG.	73 Bcf	73 Bcf	Import and export from and to Canada beginning on November 26, 1999, and extending through November 25, 2001.
1527	10–20–99	Ocean Energy, Inc. (Successor to UMC Petroleum Corp.) 99–79–NG.	50 Bcf	50 Bcf	Import and export from and to Canada over a two-year term beginning on the date of first delivery.
1528	10–20–99	Big Sky Gas Marketing Corporation 99–80–NG.	50 Bcf	50 Bcf	Import and export from and to Canada over a two-year term beginning on the date of first delivery.
1529	10–21–99	Masspower 99–83–NG	20 Bcf		Import and export up to a combined total from and to Canada beginning on October 22, 1999, and extending through October 21, 2001.
522–A	10–21–99	Seagull Marketing Services, Inc. 91–24–NG.			Vacate blanket import and export authority.
1530	10–21–99	Commonwealth Gas Company 99–82–NG.	20 Bcf		Import and export up to a combined total from and to Canada beginning November 1, 1999, and extending through October 31, 2001.
1531	10–21–99	Pittsfield Generating Company, L.P. 99–84–NG.	25.5 Bcf	25.5 Bcf	Import and export from and to Canada beginning on October 30, 1999, and extending through October 29, 2001.
1532	10–21–99	Panhandle Eastern Pipe line Company 99–75–NG.	5 Bcf		Export and reimport from and to Canada over a two-year term beginning on the date of first delivery.
1533	10–28–99	Williams Energy Marketing & Trading Company (Successor to Williams Energy Service Company) 99–86–NG.	200 Bcf		Import from Canada beginning on November 1, 1999, and extending through October 31, 2001.
1474–A	10–28–99	Cascade Natural Gas Corporation 99–22–NG.			Amendment to increase volumes and extend term from November 1, 1999, through October 31, 2000.
1534	10–28–99	United States Gypsum Company 99–78–NG.	7,300,000 MMBtu.		Import from Canada beginning on November 1, 1999, and extending through October 31, 2001.
1535	10–28–99	Sumas Cogeneration Company, L.P. 99–85–NG.	17.8 Bcf		Import from Canada beginning on November 1, 1999, and extending through October 31, 2001.
1536	10–28–99	PanCanadian Energy Services, Inc. 99–88–NG.	250 Bcf		Import and export up to a combined total from and to Canada beginning on November 1, 1999, and extending through October 2001.

[FR Doc. 99–29689 Filed 11–12–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER00–332–000, et al.]

California Power Exchange Corporation, et al.; Notice of Filings

November 8, 1999.

Allegheny Power, Dayton Power and Light Company, California Power Exchange Corporation, Consumers Energy Company, Tenaska Gateway Partners, Ltd., Montaup Electric Company, Geysers Power Company, LLC, Penobscot Hydro, LLC, Potomac Electric Power Company, Florida Power and Light Company, Reliant Energy Ormond Beach, LLC, Reliant Energy Etiwanda, LLC, Reliant Energy Indian Rivers, LLC, Reliant Energy Mandalay, LLC, Reliant Energy Coolwater, LLC, Reliant Energy Ellwood, LLC, El Dorado Energy, LLC, Southern Energy Kendall, L.L.C., Cincinnati Gas & Electric Company, Lowell Cogeneration Company Limited Partnership, Medical Area Total Energy Plant, Inc., Virginia Electric and Power Company, and New York State Electric & Gas Corporation

[Docket Nos. ER00–333–000, ER00–334–000, ER00–336–000, ER00–343–000, ER00–344–000, ER00–345–000, ER00–346–000, ER00–347–000, ER00–348–000, ER00–349–000, ER00–382–000, ER00–383–000, ER00–384–000, ER00–385–000, ER00–386–000, ER00–387–000, ER00–388–000, ER00–389–000, ER00–390–000, ER00–391–000, ER00–392–000, ER00–393–000, and ER00–394–000]

Take notice that on October 29, 1999 the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarterly ending September 30, 1999.

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 385.214). All such motions and protests must be filed on or before November 29, 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. This filing may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29695 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2550–000]

El Segundo Power, LLC; Notice of Settlement Conference

November 8, 1999.

Take notice that a settlement conference will be convened to discuss issues raised in Docket No. ER98–2550–000. The conference is scheduled for Tuesday, November 16, 1999, at 10:00 a.m. The settlement conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, for the purpose of exploring settlement of docket No. ER98–2550–000.

Any party as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. For additional information, contact Linda Lee at (202) 208–0673, or Jo Ann Scott at (202) 208–0764.

David P. Boergers,

Secretary.

[FR Doc. 99–29663 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–350–000 et al.]

FPL Energy Main Hydro LLC, et al.; Notice of Filings

November 8, 1999.

Mobile Energy Services Company L.L.C., Tampa Electric Company, Hardee Power Partners Limited, Sunbury Generation, LLC, Commonwealth Electric Company, FirstEnergy Corp., Cleveland Electric Illuminating Company, CLECO Corporation, American Electric Power Service Corporation, Duke Energy South Bay, LLC, Duke Energy South Bay, LLC, Duke Energy Oakland, LLC, Duke Energy Oakland, LLC, Duke Energy Moss Landing, LLC, Duke Energy Moss Landing, LLC, Southern Company Services, Inc., CinCap VI, LLC, Foote Creek III LLC, Southern Energy Canal, L.L.C., Southern Energy Potrero, L.L.C., Southern Energy Bowline, L.L.C., Southern Energy Lovett, L.L.C., Southern Energy Delta, L.L.C., Southern Energy NY/GEN, L.L.C., Detroit Edison Company, State Line Energy, L.L.C., and Genesee Power Station L.P.

[Docket Nos. ER00–351–000, ER00–352–000, ER00–353–000, ER00–357–000, ER00–359–000, ER00–360–000, ER00–361–000, ER00–362–000, ER00–363–000, ER00–364–000, ER00–365–000, ER00–366–000, ER00–367–000, ER00–368–000, ER00–369–000, ER00–370–000, ER00–371–000, ER00–372–000, ER00–373–000, ER00–374–000, ER00–375–000, ER00–376–000, ER00–377–000, ER00–378–000, ER00–379–000, ER00–380–000, and ER00–381–000]

Take notice that on October 29, 1999 the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarterly ending September 30, 1999.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 29, 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. This

filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29696 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP00–17–000, and CP00–19–000]

South Carolina Public Service Authority Corporation; Notice of Applications

November 8, 1999.

Take notice that on November 1, 1999, South Carolina Public Service Authority (Santee Cooper), One Riverwood Drive, Moncks Corner, Berkely County, South Carolina 29461–2901 filed an application in Docket No. CP00–17–000 pursuant to sections 7(c) of the Natural Gas Act and Subpart A of Part 157 of the Commission's regulations for a certificate of public convenience and necessity authorizing Santee Cooper to construct and operate a natural gas pipeline facility in order to transport natural gas from Transcontinental Gas Pipeline Company's (Transco) pipeline in Georgia to Santee Cooper's proposed John S. Rainey Generating Station (Rainey Station). Santee Cooper also filed an application in Docket No. CP00–19–000 pursuant to section 7(c) and Subpart F of Part 157 of the Commission's regulations for a blanket certificate of public convenience and necessity authorizing it to perform minor construction, acquisition, and abandonment of facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

Any questions regarding the application should be directed to Johathan D. Schneider, Huber Lawrence & Abell, 1001 G Street, NW, Suite 1225, Washington, DC 20001 or call (202) 737–3880.

Santee Cooper proposes to construct and operate approximately 2.1 miles of sixteen inch diameter pipeline in order to receive natural gas from Transco in Hart County, Georgia and to transport and redeliver such gas, up to the full capacity of the pipeline, to Santee Coopers's proposed Rainey Station, to be built on a site located in Anderson County, South Carolina. Santee Cooper states that it plans to use the proposed pipeline solely to deliver natural gas owned by Santee Cooper to the Rainey Station for the generation of electric energy.

Santee Cooper asserts that inasmuch as it plans to use the proposed pipeline facilities solely to deliver natural gas owned by Santee Cooper for use at the planned Rainey Station, Santee Cooper requests that Commission grant waiver of the following:

(1) The requirement, pursuant to section 157.6(b)(8), that Santee Cooper provide the Commission with the complete information necessary for the Commission to make an up-front determination on the rate treatment of the proposed project;

(2) The requirement, pursuant to Sections 157.14(a)(10), (a)(11), (a)(13), (a)(14), (a)(16), (a)(17) and (a)(18), that Santee Cooper provide Exhibits H (Total Gas Supply), I (Market Data), K (Cost of Facilities), L (Financing), N (Revenues, Expenses, and Income), and O (Depreciation and Depletion), and Exhibit P (Tariff);

(3) The accounting and reporting requirements pursuant to Parts 201 (Uniform System of Accounts), 250 (Approved Forms), and Section 260.2 (Form No. 2–A, Annual Report); and

(4) All other regulations to the extent that such waivers may be necessary in order to grant each of the authorizations requested in Santee Cooper's application.

Santee Cooper indicates that its status as an agency of the State of South Carolina may render the proposed pipeline facilities nonjurisdictional but, at this time, it takes no position on the Commission's assertion of jurisdiction over the proposed pipeline facilities, and submits this application in order to prevent undue delay in providing electric consumers with the benefits of the planned Rainey Station.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before November 29, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Santee Cooper to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–29662 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Tennessee Power Company; Notice of Complaint

November 8, 1999.

Take notice that on November 4, 1999, Tennessee Power Company (TDCO), 4612 Maria Street, Chattanooga, Tennessee 37411–1209, filed a complaint with the Federal Energy Regulatory Commission. This complaint centers around the treatment by Central Illinois Public Service Company (CIPS) of distributed generation TPCO proposes to install on CIPS' distribution system, with specific emphasis on charges CIPS' proposes to assess for the use of its 12-kV distribution facilities.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before November 24, 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222) for assistance. Answers to the complaint shall also be due on or before November 24, 1999.

David P. Boergers,

Secretary.

[FR Doc. 99–29664 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1744–001]

UAE Lowell Power LLC; Notice of Filing

November 8, 1999.

Take notice that on October 29, 1999 UAE Lowell Power LLC (ULP) tendered for filing a Notification of Change in Status. ULP seeks to notify the Commission that it has become affiliated with the Duke Power Company and Nantahala Power and Light Company Divisions of Duke Energy Corporation. Due to its new affiliation with these regulated utilities, ULP is submitting for filing with the Commission a proposed amended Rate Schedule No. 1 and a proposed Code of Conduct (Supplement No. 1 to Rate Schedule No. 1).

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 18, 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29666 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–16–000, et al.]

El Paso Energy Corporation, et al.; Electric Rate and Corporate Regulation Filings

November 4, 1999.

Take notice that the following filings have been made with the Commission:

1. El Paso Energy Corporation

[Docket No. EC00–16–000]

Take notice that on October 29, 1999 pursuant to Section 203 of the Federal Power Act (FPA), 16 U.S.C. § 824b, and Part 33 of the Regulations of the Federal Energy Regulatory Commission (Commission), El Paso Energy Corporation (El Paso Energy) filed an Application for expedited Commission authorization of El Paso Energy's proposed internal corporate reorganization of its jurisdictional power marketing subsidiaries. After the reorganization, all of El Paso Energy's jurisdictional power marketing business will be conducted by one entity, El Paso Merchant Energy, L.P.

Comment date: November 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Western Systems Power Pool

[Docket No. ER91–195–040]

Take notice that on November 1, 1999, the Western Systems Power Pool (WSPP) filed certain information as required by Ordering Paragraph (D) of the Commission's June 27, 1991 Order (55 FERC ¶ 61,495) and Ordering Paragraph (C) of the Commission's June 1, 1992 Order On Rehearing Denying Request Not To Submit Information, And Granting In Part And Denying In Part Privileged Treatment. Pursuant to 18 CFR 385.211, WSPP has requested privileged treatment for some of the information filed consistent with the June 1, 1992 order.

Copies of WSPP's informational filing are on file with the Commission, and the non-privileged portions are available for public inspection.

3. Northeast Utilities Service Company and Select Energy, Inc.

[Docket No. ER00–318–000]

Take notice that on October 29, 1999, Northeast Utilities Service Company (NUSCO) and Select Energy, Inc. (Select), tendered for filing under Section 205 of the Federal Power Act one amendment to an existing agreement and three transitional power supply agreements under which Holyoke Water Power Company (HWP) and Holyoke Power and Electric Company (HP&E) may sell electric power to Select, and purchase electric power from Select. Applicants state that the agreements are designed to bridge potential gaps in power supply allocations when the Northeast Utilities Generation and Transmission Agreement is amended due to certain restructuring events occurring in Connecticut and Massachusetts.

The Applicants state that copies of this filing have been sent to HWP, HP&E, and Select.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Pool

[Docket No. ER00–329–000]

Take notice that on October 29, 1999, the New England Power Pool Participants Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL) Agreement dated September 1, 1971, as amended, signed by Gardiner Paperboard (Gardiner). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of Gardiner's signature page would permit NEPOOL to expand its membership to include Gardiner. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Gardiner a member in NEPOOL.

The Participants Committee requests an effective date of November 1, 1999, for commencement of participation in NEPOOL by Gardiner.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Northeast Utilities Service Company

[Docket No. ER00–330–000]

Take notice that on October 29, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing letter agreements under its market-based rate tariff with Select Energy, Inc. (Select), Consolidated Edison Energy, Inc. (Con Edison Energy), Constellation Power Source, Inc. (CPS), PECO Energy Company (PECO) and Duke Energy Trading and Marketing, L.L.C., (DETM). These agreements relate to the sale, on behalf of The Connecticut Light and Power Company and Western Massachusetts Electric Company, of nuclear entitlements in the Millstone Nuclear Power Plant Units 2 and 3 and the Seabrook Nuclear Power Plant.

NUSCO requests an effective date of January 1, 2000 for the letter agreements.

NUSCO states that copies of the filing have been sent to Select, Con Edison Energy, CPS, PECO and DETM.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. PEC Energy Marketing, Inc.

[Docket No. ER00–331–000]

Take notice that on October 29, 1999, PEC Energy Marketing, Inc. (PEC), tendered for filing a Wholesale Power Sales Agreement (Agreement) with Select Energy, Inc., under PEC's market-based rate schedule designated FERC Electric Rate Schedule No. 1.

PEC proposes that the Agreement be made effective upon commencement of service under the Agreement, which is slated for February 1, 2000.

A copy of this filing has been served on Select Energy, Inc.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Central Vermont Public Service Corporation

[Docket No. ER00–335–000]

Take notice that on October 29, 1999, Central Vermont Public Service Corporation (CVPS), tendered for filing modifications to its open access Transmission Service Tariff No. 7 on behalf of itself and its wholly-owned subsidiary, Connecticut Valley Electric Company, Inc. The modifications relate to the inclusion of certain costs relating to Transmission of Electricity by Others in the transmission revenue requirement; modifying the Post-retirement Benefits Other than Pension (PBOP) amounts in the transmission cost of service; modifying charges for Scheduling, System Control and Dispatch Service; removing a duplicative revenue credit from the transmission revenue requirement; extending the period for payment of bills; and a housekeeping matter.

Central Vermont requests that the changes become effective January 1, 2000.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Consolidated Edison Company of New York, Inc.

[Docket No. ER00–337–000]

Take notice that on October 29, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to the New York Power Authority (NYPA).

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Consolidated Edison Company of New York, Inc.

[Docket No. ER00–338–000]

Take notice that on October 29, 1999, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to the New York Power Authority (NYPA).

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Rochester Gas and Electric Corporation

[Docket No. ER00–339–000]

Take notice that on October 29, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing First Revised Sheets 86–89 of RG&E's Open Access Transmission Tariff reflecting changes to security provisions of RG&E's state Distribution Tariff.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. PJM Interconnection, L.L.C.

[Docket No. ER00–340–000]

Take notice that on October 29, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing one executed umbrella service agreement for network integration transmission service under state required retail access programs with Amerada Hess Corporation.

Copies of this filing were served upon Amerada Hess Corporation.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Central Illinois Light Company

[Docket No. ER00–342–000]

Take notice that on October 29, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and one service agreement with one new customer, Illinova Power Marketing, Inc., and a name change for one customer, now known as Strategic Energy L.L.C.

CILCO requested an effective date of October 29, 1999, for the new service agreements.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Athens Generating Company, L.P.

[Docket No. ER99–4282–001]

Take notice that on October 29, 1999, Athens Generating Company, L.P., tendered for filing a revised rate schedule in compliance with the Commission's order at 89 FERC ¶ 61,024 (1999).

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Company of New Mexico

[Docket Nos. OA97–433–005 and OA97–720–005]

Take notice that on October 27, 1999, Public Service Company of New Mexico submitted a filing in response to the Commission's October 5, 1999, Order on Standards of Conduct. *Central Power and Light Company et al.*, 89 FERC ¶ 61,015 (1999).

Comment date: November 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Mark V. Carney and M. Richard Smith

[Docket Nos. ID–3429–000 and ID–3277–002]

Take notice that on October 28, 1999, the above named individuals filed with the Federal Energy Regulatory Commission an application for authority to hold interlocking positions in Millennium Power Partners, L.P., with its principal place of business at 7500 Old Georgetown Road, Bethesda, Maryland 20814.

Comment date: November 29, 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 such 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 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29660 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–17–000, et al.]

Pacificorp, et al.; Electric Rate and Corporate Regulation Filings

November 5, 1999.

Take notice that the following filings have been made with the Commission:

1. Pacificorp, Portland General Electric Company, Puget Sound Energy, Inc., Avista Corporation, Transalta Centralia Generation LLC and Tecwa Power Inc.

[Docket Nos. EC00–17–000]

Take notice that on November 1, 1999, Pacificorp, Portland General Electric Company, Puget Sound Energy, Inc., Avista Corporation, (collectively, the Private Owners) Transalta Centralia Generation LLC (TACG) (together with the private owners and TACG, the Applicants), and Tecwa Power Inc. submitted for filing, pursuant to Section 203 of the Federal Power Act, and Part 33 of the Commission's regulations, applications seeking authorization from the Commission associated with the Private Owner's conveyance of their respective interests in the 1,340 MW coal-fired Centralia Steam Electric Generating Plant (the Centralia Facility) and associated jurisdictional facilities.

Comment date: December 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Cinergy Capital & Trading, Inc., PG&E Power Service Company, DPL Energy, CNG Retail Services Corporation, Unitil Resources, Inc., CinCap IV, LLC, CSW Energy Services, Inc., CinCap V, LLC and New England Power Pool

[Docket Nos. ER93–730–015, ER94–1394–022, ER96–2601–014, ER97–1845–010, ER97–2462–009, ER98–421–008, ER98–2075–007, ER98–4055–005 and OA97–237–010]

Take notice that on October 29, 1999 the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

3. C.C. Pace Resources, Inc., Calpine Power Services Company, Southern Energy Trading and Marketing, Inc., PG&E Energy Trading—Power, Global Petroleum Corp., CoEnergy Trading Company, TransAlta Energy Marketing Corp., CMS Marketing, Services and Trading Company, Avista Energy, Inc., AEP Power Marketing, Inc., ProLiance Energy, LLC, Engage Energy US, L.P., Global Energy Services, LLC, CSW Power Marketing, Inc., Competitive Utility Services Corp., Constellation Power Source, Inc., Southern Company Energy Marketing, L.P., NRG Power Marketing, Inc., New Energy Ventures, Inc., NEV East, L.L.C., NEV California, L.L.C., NEV Midwest, L.L.C., Merchant Energy Group of the Americas, Inc., DTE Edison America, Inc., Pelican Energy Management, Inc., Occidental Power Marketing, L.P., DukeSolutions, Inc., Edison Mission Marketing & Trading, Inc., Aquila Energy Marketing Corporation, Reliant Energy Services, Inc., New Energy Partners, L.L.C., CLECO Marketing & Trading LLC, FPL Energy Services, Inc., TXU Energy Services and Southern Energy New England, L.L.C.

[Docket Nos. ER94–1181–021, ER94–1545–020, ER95–976–018, ER95–1625–022, ER96–359–016, ER96–1040–016, ER96–1316–015, ER96–2350–020, ER96–2408–016, ER96–2495–013, ER97–420–012, ER97–654–012, ER97–1177–009, ER97–1238–009, ER97–1932–011, ER97–2261–012, ER97–4166–006, ER97–4281–009, ER97–4636–008, ER97–4652–008, ER97–4653–008, ER97–4654–008, ER98–1055–008, ER98–3026–005, ER98–3084–005, ER99–3665–001, ER98–3813–005, ER99–852–004, ER99–1751–004, ER99–1801–003, ER99–1812–003, ER99–2300–002, ER99–2337–002, ER99–3333–001 and ER99–3917–001]

Take notice that on October 29, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only.

4. AYP Energy, Inc., Brooklyn Navy Yard Cogeneration Partners, L.P., The Toledo Edison Company, Northern States Power Company (Minnesota), and Northern States Power Company (Wisconsin), Southwestern Public Service Company, Logan Generating Company, L.P., Millennium Power Partners, L.P., Sunlaw Energy Partners I, L.P., GS Electric Generating Cooperative, Inc., Golden Spread Electric Cooperative, Inc., California Power Exchange Corporation, Duke Energy Morro Bay, LLC and Duke Energy Morro Bay, LLC

[Docket Nos. ER00–299–000, ER00–300–000, ER00–301–000, ER00–302–000, ER00–303–000, ER00–306–000, ER00–307–000, ER00–308–000, ER00–309–000, ER00–310–000, ER00–321–000, ER00–322–000 and ER00–323–000]

Take notice that on October 29, 1999, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending September 30, 1999.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Rochester Gas and Electric Corporation

[Docket No. ER00–354–000]

Take notice that on October 29, 1999, Rochester Gas and Electric Corporation filed an application for acceptance and approval of a form transmission service agreement, request for waivers and request to continue making sales to an affiliate in conjunction with the Retail Access Program and the Retail Access Pilot Program.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER00–355–000]

Take notice, that on October 29, 1999, Southern California Edison Company (SCE), tendered for filing a change in rate for scheduling and dispatching services as embodied in SCE's agreements with the following entities:

Entity	FERC rate schedule No.
1. Arizona Electric Power Cooperative.	132
2. Arizona Public Service Company.	348
3. California Department of Water.	112, 113, 342
4. City of Los Angeles Department of Water and Power.	163
5. Imperial Irrigation District	268
6. Metropolitan Water District of Southern California.	292
7. M–S–R Public Power Agency.	339
8. Pacific Gas and Electric Company.	256, 318
9. PacifiCorp	275

SCE requests that the revised rate for these services be made effective January 1, 2000.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. American Electric Power Service Corporation

[Docket No. ER00–356–000]

Take notice that on October 29, 1999, the American Electric Power Service Corporation (AEPSC) tendered for filing blanket service agreements by the AEP Companies under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff.) The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5. AEPSC respectfully requests waiver of notice to permit the service agreements to be made effective as specified in the submittal letter to the Commission with this filing.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Edison Company

[Docket No. ER00–358–000]

Take notice that on October 29, 1999, Commonwealth Edison Company (ComEd), submitted for filing three Service Agreements for Network Integration Service (Service Agreements) and three Network Operating Agreements (Operating Agreements) between ComEd and New Energy Midwest, L.L.C. (NEM), Unicom Energy, Inc. (UEI), and Illinois Power Company (IP). These agreements will govern ComEd's provision of network service to serve retail load under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of October 1, 1999, and accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served on NEM, UEI and IP.

Comment date: November 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Wayne-White Counties Electric Cooperative

[Docket No. ES00–4–000]

Take notice that on October 29, 1999, Wayne-White Counties Electric Cooperative (WWCEC) submitted an application under Section 204 of the Federal Power Act. WWCEC is seeking authorization to issue debt securities in an amount not to exceed $52,300,000, pursuant to a Loan Agreement with the National Rural Utilities Cooperative Finance Corporation. WWCEC also requested an exemption from the Commission's competitive bidding or negotiated placement requirements.

Comment date: November 23, 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 such 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 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–29659 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

November 8, 1999.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2192–008.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Biron Hydroelectric Project.

f. *Location:* On the Wisconsin River, at river mile 219, in the townships of Biron, Wisconsin Rapids, Stevens Point, Plover, and Whiting, in Wood and Portage Counties, Wisconsin. There is one parcel of federal lands, partially occupied by Biron Dam, located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Mark Anderson, Consolidated Water Power Company, P.O. Box 8050, Wisconsin Rapids, WI 54495–8050, (715) 422–3927.

i. *FERC Contact:* Any questions on this notice should be addressed to Michael Spencer, E-mail address, michael.spencer@ferc.fed.us, or telephone (202) 219–2846.

j. *Deadline for comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application has been accepted for filing and is ready for environmental analysis at this time.

l. Description of the Project: The project consists of the following existing facilities: (1) a main dam which has two long embankment dikes on either side of the river extending upstream; the left dike is 5,700 feet long and the right dike is 10,202.5 feet long; the main 34-foot-high dam consists of five gravity walls, three spillway sections and the powerhouse/grinder building with a total length of 4,820.8 feet; (2) the three spillway sections contain a total of 22 Taintor gates; (3) the reservoir has a surface area of 2,078 acres and gross storage of 19,500 acre-feet at elevation 1,035.3 feet msl.; (40 a powerhosue and adjacent grinder building containing three vertical francis turbine units and six horizontal duplex type turbine units with a combined total installed capacity of 6,710 kW and an average annual generation of 38.6 GWh; and (5) appurtenant facilities.

m. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. the application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address shown in item h.

Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission us requesting comments, reply comments, recommendations, terms and conditions; and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', REPLY COMMENTS''. ''RECOMMENDATIONS,'' TERMS AND CONDITIONS,'' OR ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The secretary, federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 99–29665 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

November 5, 1999.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires.

Exempt off-the-record communications will be included in the decisional record of the proceeding,

unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. The documents may be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Exempt

1. CP96–153–000; October 13, 1999; E.R. Roach
2. CP98–150–000, CP98–151–000; October 29, 1999; Jeff Shenot
3. P–10865–001, P–11495–000; November 2, 1999; Paul Lusignan
4. P–10311–000; October 28, 1999; Nancy Graybeal
5. CP99–579–000 and CP99–580–100; October 29, 1999; David Weaver
6. CP99–322–000 and CP99–323–000; November 1, 1999; Leigh Kuwanwisiwma
7. CP99–322–000 and CP99–323–000; October 28, 1999; Jesse Juen
8. P–10442–030; November 5, 1999; F. Everett Smith

Prohibited

1. ER97–2355–000; November 4, 1999; Christina C. Forbes
2. CP97–315–000 et al., CP97–319–000, CP98–200–000, CP98–540–000; October 29, 1999; Larry Sowers
3. CP97–315–000, CP97–319–000, CP98–200–000, CP98–540–000; November 3, 1999; Terry Fleming

David P. Boergers,

Secretary.

[FR Doc. 99–29661 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Revised Landowner Pamphlet

November 8, 1999.

On October 13, 1999, in Docket No. RM98–17, the Commission issued Order No. 609—Landowner Notification, Expanded Categorical Exclusions, and Other Environmental Filing Requirements. In that order, the Commission indicated that there would be modifications to the required pamphlet: ''An interstate natural gas pipeline on my land? What do I need to know?'' The pamphlet has now been updated.

The revised pamphlet has been made available on the Commission's website. From the home page at *www.ferc.fed.us* select the link to the Office of External Affairs in the lower right column of links, or enter *www.ferc.fed.us/intro/oea* directly into your browser. The link to the revised pamphlet (*www.ferc.fed.us/intro/oea/6513gpo.pdf*) is on this page. The revised pamphlet is titled: ''An Interstate Natural Gas Facility on My Land? What Do I Need to Know?'' This version should be used and may be copied until the full color version of the pamphlet is available through the Government Printing Office. The Commission will issue a notice at that time.

Questions about the pamphlet should be directed to: Federal Energy Regulatory Commission, Office of External Affairs, 888 First Street, N.E., Washington DC 20426, (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 99–29667 Filed 11–12–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6474–8]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agnecy (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*) An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION: Call Sandy Farmer at (202) 260–2740, or E-mail at ''farmer.sandy@epa.gov'', and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTAARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 0664.06; NSPS for Bulk Gasoline Terminals; in 40 CFR part 60, subpart XX; was approved 09/02/99; OMB No. 2060–0006; expires 09/30/2002.

EPA ICR No. 1871.02; Recordkeeping and Reporting Requirements for Source Categories: Generic Maximum Achievable Control Technology Standards; in 40 CFR part 63, subpart YY; was approved 09/29/99; OMB No. 2060–0420; expires 09/30/2002.

EPA ICR No. 1633.12; Acid Rain Program under Title IV of the Clear Air Act Amendments of 1990; in 40 CFR parts 72 to 78; was approved 09/30/99; OMB No. 2060–0258; expries 09/30/2002.

EPA ICR No. 1131.06; NSPS for Glass Manufacturing Plants, in 40 CFR part 60, subpart CC; was approved 10/15/99; OMB No. 2060–0054; expires 10/31/2002.

EPA ICR No. 0983.06; NSPS for Equipment Leaks of VOC in Petroleum Refineries; in 40 CFR Part 60, Subpart GGG; was approved 10/15/99; OMB No. 2060–0067; expires 10/31/2002.

EPA ICR No. 1656.06; Risk Management Program Requirements and Petitions to Modify the List of Regulated Substances under Section 112(r) of the Clean Air Act; in 40 CFR part 68; was approved 09/30/99; OMB NO. 2050–0144; expires 09/30/2002.

EPA ICR No. 1745.03; Criteria for Classification of Solid Waste Disposal Facilities and Practices Recordkeeping and Reporting Requirements (RCRA); in 40 CFR part 257, subpart B and 40 CFR part 261; was approved 10/01/99; OMB No. 2050–0154; expires 10/31/2002.

EPA ICR No. 1361.08; New RCRA Reporting and Recordkeeping Requirements for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste; in 40 CFR parts 260 and 261; 40 CFR parts 264 and 265, subpart O, 40 CFR part 266, subpart H; was approved 10/12/99; OMB No. 2050–0073; expires 10/31/2002.

EPA ICR No. 0262.09; RCRA Hazardous Waste permit Application and Modification, Part A; in 40 CFR part 270; was approved 10/22/99; OMB No. 2050–0034.

EPA ICR No. 1912.01; National Primary Drinking Water Regulation for Lead and Cooper (Final Rule); in 40 CFR parts 141 and 142; was approved 09/30/99; OMB No. 2040–0210; expires 09/30/2002.

EPA ICR No. 0575.08; Health and Data Reporting; Submission of Lists and Copies of Health and Safety Studies; in 40 CFR part 716 was approved 10/15/99; OMB No. 2070–0004; expires 10/31/2002.

OMB Disapproval

EPA ICR No. 1890.01; EPA Office of Site Remediation Enforcement Generic Program Evaluation, was disapproved 10/25/99.

Action Withdrawn

EPA ICR No. 1833.01; Mobile Source's National Communication and Outreach program; was withdrawn by EPA 09/29/99.

Comment Filed

EPA ICR No. 1918.01; Hazardous Waste Listings for Dye and Pigment Waste; in 40 CFR part 261; OMB filed comment 10/01/99.

Extensions of Expiration Dates

EPA ICR No. 1156.07; NSPS for Synthetic Fiber Production; OMB No. 2060–0059; in 40 CFR part 60, subpart HHH; on 09/21/99 OMB extended the expiration date through 12/31/99.

EPA ICR No. 1643.03; Amended Application Requirements for the Approval and Delegation of Federal Air Toxic Programs to State and Local Agencies; in 40 CFR part 60, subpart E; OMB No. 2060–0264; on 09/29/99 OMB extended the expiration date through 03/31/2000.

EPA ICR No. 0222.04; Investigations into Possible Noncompliance of Motor Vehicles with Federal Emissions Standards; Clean Air Act, Section 207(e); OMB No. 2060–0086; on 09/30/99 OMB extended the expiration date through 11/30/99.

EPA ICR No. 1571.05; General Hazardous Wastes Facility Standards; in 40 CFR parts 264 and 265; OMB No. 2050–0120; on 10/05/99 OMB extended the expiration date through 01/31/2000.

EPA ICR No. 1655.03; Gasoline Detergents Certification Program (Final Rule); in 40 CFR part 80, subpart G; OMB No. 2060–0275; on 10/26/99 OMB extended the expiration date through 04/30/2000.

EPA ICR No. 1606.02; Information Requirements for Petitions to Modify the List of Regulated Substances under Section 112(r) of the Clean Air Act, as Amended; in 40 CFR part 68(a), and (g); OMB No. 2050–0127; on 10/21/99 OMB extended the expiration date through 09/30/99.

EPA ICR No. 1780.01; Voluntary Cover Sheet for TSCA Submissions; OMB No. 2070–0156; on 10/20/99 OMB extended the expiration date through 03/31/2000.

EPA ICR No. 0616.06; Compliance Requirements for the Child-Resistant packaging Act; in 40 CFR part 157; OMB No. 2070–0052; on 10/20/99 OMB extended the expiration date through 04/30/2000.

EPA ICR No. 1710.02; Residential Lead-Based Paint Hazard Disclosure Requirements; in 40 CFR part 745; OMB No. 2070–0151; on 10/20/99 OMB extended the expiration date through 02/29/2000.

Dated: November 8, 1999.

Richard T. Westlund,

Acting Division Director, Regulatory Information Division.

[FR Doc. 99–29763 Filed 11–12–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6474–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, New Source Performance Standard (NSPS) for Surface Coating of Metal Furniture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: New Source Performance Standard (NSPS) for Surface Coating of Metal Furniture, 40 CFR part 60, subpart EE, OMB Control Number 2060–0106, EPA No. 0649.07, expiration date 1/31/2000. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 15, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download a copy of the ICR off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0649.07.

SUPPLEMENTARY INFORMATION:

Title: New Source Performance Standard (NSPS) for Surface Coating of Metal Furniture, OMB Control Number 2060–0106, EPA ICR Number 0649.07, expiration date 1/31/2000. This is a request for extension of a currently approved collection.

Abstract: The NSPS for Surface Coating of Metal Furniture were proposed on November 28, 1980 and promulgated on October 29, 1982. These standards apply to each metal furniture surface coating operation in which organic coatings are applied (greater than 3,842 liters of coating per year) that commence construction, modification or reconstruction after November 28, 1980. Approximately 553 sources are currently subject to the standard, and it is estimated that 30 sources per year will become subject to the standard while an equal number will go off-line during this time period. It is further assumed that there is an average of four affected facilities per plant. Volatile Organic Compounds (VOCs) are the pollutants regulated under this subpart, and this information is being collected to assure compliance with 40 CFR part 60, subpart EE.

Owners or operators of the affected facilities described must make initial reports when a source becomes subject to, conducts and reports on a performance test, demonstrates and reports on continuous monitor performance, and maintains records of the occurrence and duration of any start up, shut down, or malfunction in the operation of an affected facility. Semiannual reports of excess missions are required. These notifications, reports, and records are essential in determining compliance; and are required, in general, of all sources subject to NSPS.

Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least 2 years following the date of such measurements, maintenance reports, and records. The estimated total cost of the ICR will be $3,480,531 over the next three years (including labor hours, operating & maintenance costs, and start up costs). All reports are sent to the delegated State or Local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on January 5, 1999 (64 FR 499); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 63 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing

and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owner/Operators of Metal Furniture Coating Plants Estimated Number of Respondents: 553.

Frequency of Response: Initial, Quarterly, and Semiannual Reports.

Estimated Total Annual Hour Burden: 101,070.

Estimated Total Annualized Capital, O&M Cost Burden: $1,120,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0649.07 and OMB Control No. 2060–0106 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: November 8, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–29766 Filed 11–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6474–7]

Clean Water Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intended transfer of confidential business information to contractors and subcontractors.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential business information (CBI) collected from the pulp, paper, and paperboard manufacturing; pharmaceutical manufacturing; and other industries listed below to Science Applications International Corporation, Inc. (SAIC); Abt Associates, Inc.; Westat; Stratus Consulting; and their subcontractors. Transfer of the information will allow the contractors and subcontractors to support EPA to develop effluent limitations guidelines and standards and intake water regulations under the Clean Water Act (CWA), and in developing or evaluating the need for regulations under the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA), and the Toxic Substances Control Act (TSCA). The information being transferred was or will be collected under the authority of section 308 of the CWA. Some of the information was provided voluntarily by industrial facilities; this information also could have been collected under section 308. Some information being transferred from the pulp, paper, and paperboard industry was collected under the additional authorities of section 114 of the CAA and section 3007 of the RCRA. Interested persons may submit comments on this intended transfer of information to the address noted below.

DATES: Comments on the transfer of data are due November 22, 1999.

ADDRESSES: Comments may be sent to Mr. David Hoadley, Document Control Officer, Engineering and Analysis Division (4303), 911 East Tower, U.S. EPA, 401 M Street S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. David Hoadley, Document Control Officer, at (202) 260–7765.

SUPPLEMENTARY INFORMATION: EPA has previously transferred to its contractors, SAIC (located in Reston, Virginia) and Abt Associates (located in Bethesda, Maryland) information, including CBI concerning certain industries collected under the authority of section 308 of the CWA. EPA determined that this transfer was necessary to enable the contractors and subcontractors to perform their work in supporting EPA in developing effluent guidelines and standards for certain industries. Notice to this effect was provided to the affected industries.

Today, EPA is giving notice that it has entered into additional contracts, numbers 68–C–99–233 and 68–C–99–239, with SAIC and Abt Associates, respectively. EPA has also entered into two other contracts, 68–C–99–242, with Westat (located in Rockville, Maryland), and 68–W6–0055, with Stratus Consulting (located in Boulder, Colorado). The reason for these contracts is to secure additional contractor support in statistical analysis, survey and database development, economic analyses, and ecological analyses. To obtain assistance in responding to these contracts, SAIC, Abt Associates, and Westat have entered into contracts with their subcontractors.

SAIC will provide similar statistical analysis support services as previously provided in contract number 68–C4–0046. In the new contract, SAIC has obtained the services of three subcontractors, Westat, Neptune and Company, Inc. (located in Los Alamos, New Mexico), and Premier, Inc. (located in Dunn Loring, Virginia) for additional statistical analysis support.

Abt Associates will provide the same type of economic and regulatory analysis and evaluation support services as previously provided in contract number 68–C4–0060. In the new contract, Abt Associates has retained, from the previous contract, the economic analysis services of three subcontractors: Eastern Research Group (located in Lexington, Massachusetts); Industrial Economics, Inc. (located in Cambridge, Massachusetts); and RCG/Hagler Bailly Inc. (located in Boulder, Colorado). Abt Associates has also obtained the economic analysis services of five other subcontractors: ICF (located in Fairfax, Virginia); NRDA (Tuscaloosa, Alabama); Environomics (located in Bethesda, Maryland); GLEC (located in Traverse City, Michigan); and Tetra Tech (located in Fairfax, Virginia).

Westat will provide general survey, statistical and data analysis, and database support. Westat also has obtained the services of three subcontractors: SAIC, NuStats International (located in Austin, Texas), and I-Solutions Group, Inc. (located in Vienna, Virginia) for additional support in surveys and statistical analysis.

Stratus Consulting will provide ecological and economic analysis.

All EPA contractor and subcontractor personnel are bound by the requirements and sanctions contained in their contracts with EPA and in EPA's confidentiality regulations found at 40 CFR Part 2, Subpart B. SAIC, Abt Associates, Westat, Stratus Consulting, and their subcontractors adhere to EPA-approved security plans which describe procedures to protect CBI. The procedures in these plans are applied to CBI previously gathered by EPA for the industries identified below and to CBI that may be gathered in the future for these industries. The security plans specify that contractor and subcontractor personnel are required to sign non-disclosure agreements and are briefed on appropriate security procedures before they are permitted access to CBI. No person is automatically granted access to CBI; a *need to know* must exist.

The information that will be transferred to SAIC, Abt Associates, Westat, and their subcontractors consists primarily of information previously collected by EPA to support the development of effluent limitations guidelines and standards under the CWA. (EPA does not intend to transfer this information to Stratus Consulting.) In particular, information, including CBI, collected for the development of effluent limitations guidelines and standards for the following industries may be transferred: airport deicing; centralized waste treatment; coal mining and remining; industrial laundries; industrial waste combustors; iron and steel; landfills; machinery products and manufacturing; oil and gas; organic chemicals; pesticide manufacturing; pesticides formulating, packaging, and repackaging; pharmaceutical manufacturing; petroleum refining; pulp, paper, and paperboard manufacturing; steam and electric; and transportation equipment cleaning.

In addition, EPA will transfer to all four contractors (*i.e.*, SAIC, Abt Associates, Westat, and Stratus Consulting) and their subcontractors information collected under Section 308 of the CWA to support development of regulations for intake of water under Section 316(b) of the CWA. This information was and will be collected from plants that generate electricity by means of steam and thus have large cooling water needs. Facilities in the traditional steam electric utility category are classified under Standard Industrial Classification (SIC) codes 4911 and 493, while nonutility power producers include Paper and Allied Products (SIC Major Group 26), Chemical and Allied Products (SIC Major Group 28), Petroleum and Coal Products (SIC Major Group 29), and Primary Metals (SIC Major Group 33).

EPA also intends to transfer to SAIC, Abt Associates, Westat, Stratus Consulting, and their subcontractors all information listed in this notice, of the type described above (including CBI) that may be collected in the future under the authority of section 308 of the CWA, as is necessary to enable SAIC, Abt Associates, Westat, Stratus Consulting, and their subcontractors to carry out the work required by their contracts to support EPA's development of effluent limitations guidelines and standards and intake water regulations for the industries listed above.

Dated: November 8, 1999.

Geoffrey H. Grubbs,

Director, Office of Science and Technology, Office of Water.

[FR Doc. 99–29764 Filed 11–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00630; FRL–6392–2]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency pertaining to characterization and non-target organism data requirements for protein plant-pesticides and cumulative risk assessment methodology of pesticide substances that have a common mechanism of toxicity. The meeting is open to the public. Seating at the meeting will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact either Paul Lewis or Laura Morris at the address listed under ''FOR FURTHER INFORMATION CONTACT'' at least 5 business days prior to the meeting so that appropriate arrangements can be made.

DATES: The meeting will be held on Wednesday, December 8 and Thursday, December 9, 1999, from 8:30 a.m. to 5:30 p.m.

ADDRESSES: Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, VA. The telephone number for the Sheraton hotel is: (703) 486–1111.

Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00630 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Paul Lewis or Laura Morris, Designated Federal Officials, FIFRA Scientific Advisory Panel (7101C), Office of Science Coordination and Policy, Office of Prevention, Pesticides and Toxic Substance, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; Office location: Rm. 117T, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA; telephone: (703) 305–5369; e-mail: lewis.paul@epa.gov or morris.laura@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the persons listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of This Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**-Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–00630. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00630 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: ''opp-docket@epa.gov,'' or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00630. Electronic comments may also be filed online at many Federal Depository Libraries.

II. Purpose of the Meeting

This FIFRA SAP meeting includes two sessions. The first session concerns characterization and non-target organism data requirements for protein plant-pesticides. This session will entail a discussion of proposed Agency data requirements for protein plant-pesticides, including both characterization and non-target organisms. Characterization includes the identity of the pesticidal substance and the genetic material necessary for its production along with expression levels, tissue specificity, and plant biology. Non-target organism discussions will include the appropriate non-target organisms for testing, test substances, and conduct of such studies.

The second session will be a review of issues pertaining to cumulative risk assessment of pesticide substances that have a common mechanism of toxicity. EPA is currently preparing guidance for assessing cumulative risk in support of the FQPA. At the September 21–24, 1999 meeting of the FIFRA SAP, EPA's Office of Pesticide Programs (OPP) presented the chapters of the guidance that describe the approaches it plans to use to cumulate hazard of pesticide substances that cause a common toxic effect by a common mechanism. The FIFRA SAP made recommendations for improving the guidance. OPP has revised the guidance accordingly and has completed the chapters that pertain to assessing exposure to two or more pesticides that share a common mechanism of toxicity. At the December, 1999, meeting of the FIFRA SAP, OPP will present the following: (1) a summary of the issues presented at the September meeting; (2) how EPA has addressed the recommendations made by the FIFRA SAP; (3) an overview of cumulative exposure assessment and risk characterization section; and (4) a case study that illustrates how OPP plans to use the guidance.

III. Availability of Review Materials

A meeting agenda is currently available and copies of EPA background documents for the meeting will be available no later than November 9, 1999. The meeting agenda and EPA primary background documents will be available on the FIFRA SAP web site -- http://www.epa.gov/scipoly/sap/ or may be obtained by contacting the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; Office location: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA; telephone number: (703) 305–5805.

IV. Written Comments and Oral Presentations at the Meeting

Members of the public wishing to submit comments should contact the persons listed under ''FOR FURTHER INFORMATION CONTACT'' to confirm that the meeting date and the agenda have not been modified or changed. Interested persons are permitted to file written statements before the meeting. To the extent that time permits, and upon advanced written request to the persons listed under ''FOR FURTHER INFORMATION CONTACT'', interested persons may be permitted by the Chair of the Scientific Advisory Panel to present oral statements at the meeting. The request should identify the name of the individual making the presentation, the organization (if any) the individual will represent, and any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard, etc). There is no limit on the length of written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. The Agency also urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements should notify the persons listed under ''FOR FURTHER INFORMATION CONTACT'' and submit 40 copies of the summary information. The Agency encourages that written statements be submitted before the meeting to provide Panel Members the time necessary to consider and review the comments.

V. Panel Report

Copies of the Panel's report of their recommendations will be available approximately 45 working days after the meeting, and will be posted on the FIFRA SAP web site or may be obtained by contacting the Public Information and Records Integrity Branch at the address or telephone number listed in Unit III. of this document.

List of Subjects

Environmental protection.

Dated: November 8, 1999.

Michael Firestone,

Acting Director, Office of Science Coordination and Policy.

[FR Doc. 99–29771 Filed 11–12–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6475–1]

Peer Review of Agency Draft Mercury Research Strategy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: This document announces a workshop organized by Eastern Research Group, Inc., a U.S. Environmental Protection Agency (EPA) contractor, to obtain scientific peer review of an EPA Office of Research and Development (ORD) draft Research Strategy entitled: Mercury Research Strategy.

DATES: The peer review workshop will begin at 9 a.m. and end no later than 5 p.m. on Wednesday, December 8, 1999, and begin at 8:30 a.m. and end no later than 4 p.m. on Thursday, December 9,

1999. Members of the public may attend as observers. Due to limited space, seating at the meetings will be on a first-come first-serve basis.

ADDRESSES: The peer review workshop will be held at the Holiday Inn Capitol, 550 C Street, SW, Washington, DC 20024. To attend the workshop as an observer, contact Eastern Research Group, Inc., Telephone: (781) 674–7374. Space is limited so please register early.

AVAILABILITY OF REVIEW MATERIALS: An electronic version of the draft Research Strategy is accessible on EPA's National Center for Environmental Assessment (NCEA) home page via the Internet at http://www.epa.gov/ncea/new.htm.

FOR FURTHER INFORMATION CONTACT: The EPA has contracted with Eastern Research Group, Inc., (ERG, Inc., 110 Hartwell Avenue, Lexington, Massachusetts 02421). To attend the meeting as an observer, please preregister by calling ERG at 781–674–7374 or fax a registration request to 781–674–2906. Upon registration, you will be sent an agenda and a logistical fact sheet.

SUPPLEMENTARY INFORMATION: ERG is convening the peer review panel to review a draft Mercury Research Strategy. The peer review panel is requested to comment on the extent to which the Research Strategy clearly identifies the appropriate strategic directions for a research program to answer key scientific questions for mercury risk assessment and risk management over the next five years, describes the rationale for, and the expected benefits of, EPA's Mercury Research Program and outlines the relative emphasis and timing of the research activities. ORD expects the Mercury Research Strategy to guide development of more detailed implementation plans and serve as a resource for Agency managers who must make decisions about research priorities and budgets.

After considering recommendations from extramural advisory groups, as well as senior scientists from across EPA's Program and Regional Offices, ORD has identified in the Research Strategy the strategic directions for its Mercury Research Program. While the Research Strategy delineates the research areas comprising the framework for the Mercury Research Program, the details of the research areas, including the scientific approach at the individual project level, and the anticipated products, performance measures, and schedules, will be included in subsequent research plans and are not a part of this Research Strategy. ERG is undertaking the establishment of a peer review panel to review the Research Strategy.

Dated: November 8, 1999

Harold Zenick,

Acting Deputy Assistant Administrator for Science, Office of Research and Development.

[FR Doc. 99–29765 Filed 11–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6474–9]

Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Clean Air Scientific Advisory Committee of the USEPA Science Advisory Board (SAB) will meet on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office is included below.

1—CASAC Diesel Review Panel

The Diesel Review Panel of the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board (SAB) will meet on Wednesday, December 1, 1999 at the Hawthorne Suites, 300 Meredith Drive Durham, NC 27713, tel. (919) 361–1234. The meeting will begin at 8:30 am and end no later than 5:00 pm.

Purpose of the Meeting

The CASAC Diesel Review Panel will review the Agency's draft Health Assessment Document for Diesel Engine Emissions. This continues the CASAC review of this document that last took place on May 5–6, 1998. Please see the CASAC report of that meeting (EPA–SAB–CASAC–99–001, October 7, 1999, Review of the Diesel Health Assessment Document, available on the SAB Website [*www.epa.gov/sab*] or from the SAB staff at (202) 564–4533). The principal purpose of this meeting is for the Committee to determine if the Agency has responded to previous concerns of the Committee and if the document is an adequate portrayal of the current state of knowledge on diesel emissions.

Availability of Review Materials

The draft Health Assessment Document for Diesel Engine Emissions (EPA/600/8–90/057D, November 1999), will be available as follows: an electronic version of the draft assessment will be made available via the National Center for Environmental Assessment (NCEA) web site at http://www.epa.gov/ncea. A limited number of paper copies will be available from NCEA's Technical Information Staff (phone: 202–564–3261; fax: 202–565–0050).

The Agency will be accepting comments on the draft assessment as part of a limited public review and comment period. Comments must be in writing and must be postmarked by December 17, 1999. There will be no separate **Federal Register** notice announcing this public review and comment period. Comments should be mailed to: Diesel Comments, NCEA–W/TIS (8623D), USEPA, 401 M St., SW., Washington, DC 20460. Please submit one unbound original, to include an index of any attachments, and two copies. If sent via overnight delivery, please use the following address: 808 17th Street, NW, Washington, DC 20006. Note that the Agency is accepting comments that specifically relate to the technical aspects of the draft document. All technical comments will become part of the official record. For that reason, commenters should not provide any information that is not suitable for public inspection, such as personal medical information, home address, confidential business information, or any information protected by copyright. Comments that address policy or other issues or do not specifically provide technical comments on the draft will not be included in the record. Due to limited resources, acknowledgments will not be sent.

2—CASAC Particulate Matter Review Panel

The Particulate Matter Review Panel of the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board (SAB) will meet on Thursday, December 2, 1999 at the Hawthorne Suites, 300 Meredith Drive Durham, NC 27713, tel. (919) 361–1234. The meeting will begin at 8:30 am and end no later than 5:00 pm.

Purpose of the Meeting

(a) The CASAC PM Review Panel will review an external review draft of the EPA air quality criteria document for particulate matter (PM) now being revised by EPA's National Center for Environmental Assessment (NCEA) for

use in supporting the next periodic review of the National Ambient Air Quality Standards (NAAQS) for PM required under Clean Air Act Sections 108 and 109. The CASAC review will focus on aspects of the organization, structure and presentation of the draft document. A full technical peer review will take place at a meeting planned for summer 2000. (b) The CASAC PM Review Panel will also review a draft development plan for the PM NAAQS Review prepared by EPA's Office of Air Quality Planning and Standards (OAQPS). The purpose of the development plan is to provide an overview of the issues that EPA expects to address during the development plan of the Staff Paper and Risk Assessment, and a general framework for the analyses needed to help inform EPA's efforts. Comments received from the CASAC and the public will be considered in the preparation of the Office of Air Quality Planning and Standards (OAQPS) Staff Paper and Risk Assessment. The first draft of the OAQPS Staff Paper is to be released to the public in Summer 2000, for review by CASAC in a meeting that is planned in that time frame.

Availability of Review Materials

(a) The U.S. EPA recently announced (64 **Federal Register** 57884, October 27, 1999) the availability for public comment of the First External Review Draft of the document Air Quality Criteria for Particulate Matter, which assesses the latest available scientific information on the effects of airborne particulate matter (PM) on human health and welfare. To obtain a copy of that First External Review Draft of Air Quality Criteria for Particulate Matter (EPA 600/P–99/002a–c), contact Ms. Diane Ray at the National Center for Environmental Assessment—RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone 919–541–3637; facsimile: 919–541–1818; e-mail: *ray.diane@epa.gov*. Please provide the title and the EPA number for the document, as well as your name and address. The document will be dispensed in CD ROM format unless the requestor requires a paper copy. Internet users may download a copy from the homepage for EPA's National Center for Environmental Assessment (NCEA). The URL is http://www.epa.gov/ncea/. Anyone who wishes to comment on the draft document, Air Quality Criteria for Particulate Matter, must submit the comments in writing by no later than January 14, 2000. Send the written comments to the Project Manager for Particulate Matter, National Center for Environmental Assessment—RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

As stated in the October 27, 1999 FR Notice, the EPA is aware that a substantial number of new scientific studies on PM are underway that will likely be completed and accepted for publication in time to be included in the final criteria document. To this end, the Agency encourages timely completion and submission of these studies for publication. Because the potential importance of many of these additional studies cannot be assessed in the present draft, the Agency is requesting that the CASAC's and the public's comments on this external review draft focus particularly on the aspects of organization, structure, and presentation in the document, although comments on provisional conclusions and specific details are, of course, welcome. Following the CASAC meeting, the EPA plans to incorporate revisions to the document in response to public comments and CASAC review of the first external review draft, and then to release a second external review draft for public comment and CASAC review in midyear 2000. For reasons discussed above, the second draft may address a number of studies not completed in time for assessment in the first draft. Accordingly, the EPA urges that interested parties be prepared to review the second draft on that basis. Findings and conclusions from the Air Quality Criteria for Particulate Matter will be used as key inputs to the preparation during 2000 of a draft EPA staff paper on airborne particles, as discussed in the draft PM NAAQS Review Development Plan.

(b) Copies of the draft PM NAAQS Review Development Plan will be made available at the December 2, 1999 CASAC meeting. The public can also contact Ms. Mary Ross of OAQPS at 919–541–5170 or *ross.mary@epa.gov* for information or a copy of the draft document, in advance of the December 2 meeting.

FOR FURTHER INFORMATION CONCERNING THE MEETINGS: Members of the public desiring additional information about either meeting should contact Mr. Robert Flaak, Designated Federal Officer, Clean Air Scientific Advisory Committee, Science Advisory Board (1400A), U.S. EPA, 401 M Street, SW, Washington, DC 20460 (FedEx address: USEPA, SAB, Suite 6450, Ariel Rios Building, North Lobby, 1200 Pennsylvania Ave. NW, Washington, DC 20004); telephone/voice mail at (202) 564–4546; fax at (202) 501–0582; or via e-mail at *flaak.robert@epa.gov*. The draft agendas will be available approximately two weeks prior to the meetings on the SAB website (*http://www.epa.gov/sab*) or from Ms. Diana Pozun at (202) 564–4544; FAX: (202) 501–0582; or e-mail at: *pozun.diana@epa.gov*.

Members of the public who wish to make a brief oral presentation at either meeting must contact Mr. Flaak *in writing* (by letter, fax, or e-mail—see previously stated information) no later than 12 noon Eastern Time, Wednesday, November 24, 1999 in order to be included on the Agenda. For the PM review meeting on December 2nd, we request that public comments on the First External Review Draft of the document Air Quality Criteria for Particulate Matter focus particularly on the aspects of organization, structure, and presentation in the document. The technical issues will be peer reviewed in detail at a later meeting planned for summer 2000.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week before the meeting), may be mailed to the relevant SAB committee or subcommittee; comments received too close to the meeting date will normally be provided to the committee at its meeting, or mailed soon after receipt by the Agency. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in the Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access, should contact Mr. Flaak at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: November 9, 1999.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 99–29769 Filed 11–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6476–5]

Holloway Waste Oil Site/Jacksonville, FL; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Holloway Waste Oil Site (Site) located in Jacksonville, Florida, with approximately 106 parties. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, S.W., Atlanta, Georgia 30303, (404) 562–8887.

Written comment may be submitted to Mr. Greg Armstrong at the above address within 30 days of the date of publication.

Dated: November 1, 1999.

Anita Davis,

Acting Chief, CERCLA Program Services Branch.

[FR Doc. 99–29875 Filed 11–12–99; 8:45 am]

BILLING CODE 6560–50–P

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 3:00 p.m. on Monday, November 8, 1999, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Ellen S. Seidman (Director, Office of Thrift Supervision), concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be a considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: November 9, 1999.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 99–29850 Filed 11–10–99; 2:40 pm]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

[No. 99–N–17]

Submission for OMB Review; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) hereby gives notice that it has submitted the information collection entitled ''Community Support Requirements'' to the Office of Management and Budget (OMB) for review and approval of a three-year extension of the OMB control number, which is due to expire on December 31, 1999.

DATES: Interested persons may submit comments on or before December 15, 1999.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Board, Washington, DC 20503. Address requests for copies of the information collection and supporting documentation to Elaine L. Baker, Secretary to the Board, by telephone at 202/408–2837, by electronic mail at bakere@fhfb.gov, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Amy R. Maxwell, Housing Finance Officer, Program Assistance Division, Office of Policy, Research and Analysis, by telephone at 202/408–2882, by electronic mail at maxwella@fhfb.gov, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of Information Collection

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that Federal Home Loan Bank (FHLBank) members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). In establishing these community support requirements for FHLBank members, the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901, *et seq.*, and record of lending to first-time homebuyers. 12 U.S.C. 1430(g)(2). Part 936 of the Finance Board's regulations implements section 10(g) of the Bank Act. *See* 12 CFR part 936. The rule provides uniform community support standards all FHLBank members must meet and review criteria Finance Board staff must apply to determine compliance with section 10(g). More specifically, § 936.2 of the rule implements the statutory community support requirement. 12 CFR 936.2. Section 936.3 establishes community support standards for the two statutory factors—CRA and first-time homebuyer performance—and provides guidance to a FHLBank member on how it may satisfy the standards. 12 CFR 936.3. Sections 936.4 and 936.5 establish the procedures and criteria the Finance Board uses in determining whether FHLBank members satisfy the statutory and regulatory community support requirements. 12 CFR 936.4 and 936.5. Section 936.6 requires the FHLBanks to establish and maintain a community support program that, among other things, provides technical assistance to members and promotes community lending and affordable housing activities. 12 CFR 936.6.

The information collection contained in Form 96–01, the Community Support Statement Form, and part 936 is necessary to enable and is used by the Finance Board to determine whether FHLBank members satisfy the statutory and regulatory community support requirements. Only FHLBank members that meet these requirements may maintain continued access to long-term FHLBank advances. *See* 12 U.S.C. 1430(g).

The OMB number for the information collection is 3069–003. The OMB clearance for the information collection expires on December 31, 1999.

The likely respondents are institutions that are members of a FHLBank.

B. Burden Estimate

The Finance Board estimates that a total annual average of 3000 members will file a Community Support Statement, with one submission per member. The estimate for the average hours per submission is one hour. The estimate for the annual hour burden for members that must file a Community Support Statement is 3000 hours (3000 members × 1 Community Support Statement per member × approximately 1.0 hour). The Finance Board estimates a total annual average of 15 members will submit a request to remove a restriction on access to long-term advances, with 1 request per member. The estimate for the average hours per request is one hour. The estimate for the annual hour burden for reinstatement requests is 15 hours (15 members × 1 reinstatement request per member × approximately 1.0 hour). The Finance Board estimates that the total annual hour burden for all respondents is 3015 hours ((3000 members × 1 Community Support Statement per member +15 members × 1 reinstatement request per member) × approximately 1.0 hour).

C. Comment Request

In accordance with the requirements of 5 CFR 1320.8(d), the Finance Board published a request for public comments regarding this information collection in the **Federal Register** on June 30, 1999. *See* 64 FR 35157 (June 30, 1999). The 60-day comment period closed on August 30, 1999. The Finance Board received no public comments. Written comments are requested on: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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 may be submitted to OMB in writing at the address listed above.

By the Federal Housing Finance Board.

Dated: November 5, 1999.

William W Ginsberg,

Managing Director.

[FR Doc. 99–29722 Filed 11–12–99; 8:45 am]

BILLING CODE 6725–01–P

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 (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 26, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. BancFirst Corporation, Oklahoma City, Oklahoma; to acquire 100 percent of the voting shares of First State Bank, Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, November 10, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99-29914 Filed 11-12-99; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food and Drug Administration/Industry Exchange Workshop on Medical Device Quality Systems Inspection Technique (QSIT); Public Workshops; Addendum

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), is announcing additional workshops in the series of FDA/Industry Exchange Workshops. The original list of workshops was published in the **Federal Register** of September 10, 1999. Topics for discussion at these workshops include: Development of QSIT, Compliance Program and Warning Letter (Pilot), Management Controls, Corrective and Preventive Action, Design Controls, and Industry Perspective of QSIT. These additional workshops will enhance the medical device community's understanding of QSIT, and the device industry's establishment of effective quality systems, thereby preventing regulatory problems during inspections.

Date, Time, and Location: See Table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number) along with the correct payment amount to the Registrar. Fees cover refreshments, organization and site costs, and materials. Because space is limited, interested parties are encouraged to register early. Please arrive early to ensure prompt registration. If you need special accommodations due to a disability, please inform the Registrar at least 7 days in advance of the workshop. A sample registration form is provided at the end of this document.

Contact Person: Herman B. Janiger, Food and Drug Administration, Northeast Region, (HFRNE–17), 850 Third Ave., Brooklyn, New York 11232, 718–340–7000 ext. 5528.

SUPPLEMENTARY INFORMATION:

In the fall of 1999, FDA field offices will begin using the QSIT nationwide as

the primary tool for medical device inspections. QSIT was developed using a collaborative effort with stakeholders and was tested in the three districts. The additional workshops are scheduled as follows:

TABLE 1.

Workshop Address	Date and Local Time	Deadline to Register and Fee	Registrar and Cosponsor	FDA Contact Person
Costa Mesa: Wyndham Garden Hotel at Orange County Airport, 3350 Avenue of the Arts, Costa Mesa, CA 92626, 714–751–5100.	Tuesday, November 16, 1999, 8:30 a.m. to 4:30 p.m.	Friday, November 12, 1999, $90.00	PeriAnn DiRocco, Orange Country Regulatory Affairs Discussion Group (OCRA), PMB 624, 5405 Alton Pkwy. 5A, Irvine CA 92604–3718, Phone/FAX 949–348–9141, e-mail Sdirocco@aol.com.	Marcia Madrigal, Small Business Representative, Pacific Regional Office, 510–637–3980.
Irvine: Hilton Orange County Airport, 18800 MacArthur Blvd., Irvine, CA 92612, 949–833–9999	Wednesday, November 17, 1999 8:30 a.m. to 4:30 p.m.	Friday, November 12, 1999 $90.00	PeriAnn DiRocco, Orange Country Regulatory Affairs Discussion Group (OCRA), PMB 624, 5405 Alton Pkwy. 5A, Irvine CA 92604–3718, Phone/FAX 949–348–9141, e-mail Sdirocco@aol.com.	Marcia Madrigal, Small Business Representative, Pacific Regional Office, 510–637–3980.

The above workshops further implement the FDA Plan for Statutory Compliance (developed under section 406 of the FDA Modernization Act (21 U.S.C. 393)) by working more closely with stakeholders and ensuring access to needed scientific and technical expertise. They also comply with the Small Business Regulatory Enforcement Fairness Act (Public Law 104–121), which requires outreach activities by Government agencies directed to small businesses. This notice announcing the workshops and a registration form may be accessed at the CDRH website at http://www.fda.gov/cdrh/fedregin.html. The following information is requested for registration:

BILLING CODE 4160–01–F

REGISTRATION FORM

Quality System Inspection Technique (QSIT)

Regional Medical Device Workshop

Instructions: To register, complete this form and mail with registration fee to the Registrar for the workshop you wish to attend.

Date, _____

Location, _____

Fee enclosed, _____

Name, _____

Title, _____

Company, _____

Address, _____

Telephone, _____

Fax, _____

E-mail _____

Dated: November 5, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–29630 Filed 11–12–99; 8:45 am]

BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0928]

Semiannual Guidance Agenda

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing the semiannual guidance document agenda. FDA committed to publishing, on a semiannual basis, possible guidance topics or documents for development or revision during the next year, and seeking public comment on additional ideas for new guidance documents or revisions of existing ones. This commitment was made in FDA's February 1997 ''Good Guidance Practices'' (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents. This list is intended to seek public comment on possible topics for guidance documents and possible revisions to existing guidances.

DATES: Submit comments on this list and on agency guidance documents at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

For general information regarding FDA's GGP's contact: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

For information regarding specific topics or guidances, please see contact persons listed below.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 27, 1997 (62 FR 8961), FDA published a notice announcing its GGP's, which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents. The agency adopted the GGP's to ensure public involvement in the development of guidance documents and to enhance public understanding of the availability, nature, and legal effect of such guidance.

As part of FDA's effort to ensure meaningful interaction with the public regarding guidance documents, the agency committed to publishing a semiannual guidance document agenda of possible guidance topics or documents for development or revision during the coming year. The agency also committed to soliciting public input regarding these and additional ideas for new topics or revisions to existing guidance documents.

The agency is neither bound by this list of possible topics nor required to issue every guidance document on this list or precluded from issuing guidance documents not on the list set forth in this document.

The following list of guidance topics or documents represents possible new topics or revisions to existing guidance documents that the agency is considering. The agency solicits comments on the topics listed in this document and also seeks additional ideas from the public.

On June 1, 1998, the President instructed all Federal agencies to ensure the use of ''plain language'' in all new documents. As part of this initiative, FDA is also seeking public comment on the clarity of its guidance documents.

The guidance documents are organized by the issuing Center or Office within FDA, and are further grouped by topic categories. The agency's contact persons are listed for each specific area.

II. Center for Biologics Evaluation and Research (CBER)

Title/Topic of Guidance	Contact
CATEGORY—COMPLIANCE AND INSPECTION	
Guidance for Reprocessing, Reworking, and Blending Practices for Biological Bulk Substances, Final Bulk, and Finished Products.	Stephen M. Ripley, Center for Biologics (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.
Compliance Program 7342.002, Inspection of Source Plasma Establishments.	Do.
Compliance Program, Inspection of Licensed Vaccine and Related Product Manufacturers.	Do.
Compliance Program 7341.002, Inspection of Tissue Banking Establishments.	Do.
Compliance Program 7341.003, Examination of Blood and Blood Components Offered for Import.	Do.
Compliance Program 7342.006, Inspection of Plasma Derivatives of Human Origin.	Do.
Compliance Program 7342.008, Inspection of Licensed Viral Marker Test Kits.	Do.
Guidance for the Design, Installation, and Operations of Water Systems.	Do.
Guidance on Heating, Ventilation, and Air Conditioning (HVAC) and the Monitoring of Environments for the Manufacture of Biological Substances and Products.	Do.
Guidance for the Validation of the Limulus Amebocyte Lystate Test as an End–Product Endotoxin Test for Human and Animal Parenteral Drugs, Biological Products and Medical Devices.	Do.
Guidance for Process Validation Considerations for Biological Drug Substances and Biological Drug Products.	Do.
Guidance on Lot Release for Licensed Biological Products Distributed into Foreign Markets.	Do.
CATEGORY—THERAPEUTICS	
Guidance for the Chemistry, Manufacturing and Control Information on Gene Therapy Products.	Do.

Title/Topic of Guidance	Contact
Guidance to Industry on Xenotransplantation.	Do.
Guidance in the Development of Products for Chronic Cutaneous Ulcers and Acute Burn Wounds.	Do.
Guidance on Recombinant Biologics Produced in Plants.	Do.
Guidance on the Development of Products for Systemic Lupus Erythematosus.	Do.
CATEGORY—BLOOD AND BLOOD COMPONENTS	Do.
Guidance for Collection, Testing and Release of Autologous Blood.	Do.
Guidance for Recommendations for Donor Testing By Automated Methods When Using Treponemal Based Screening Tests for Syphilis.	Do.
Guidance for Reviewer Guidance for a Pre–Market Notification Submission for Automated Blood Establishment Testing Instruments.	Do.
Guidance for HIV Reentry Algorithms for Deferred Blood and Plasma Donors.	Do.
Guidance for Precautionary Measures to Reduce the Possible Risk of Transmission of Zoonoses by Xenograft Recipients and Their Close Contacts, Through Whole Blood, Blood Components, Source Plasma, and Source Leukocytes.	Do.
Guidance for Additional Recommendations for Donor Questioning Regarding Travel to Areas Endemic for Malaria.	Do.
CATEGORY—VACCINES	
Guidance for Immunization of Human Plasma Donors To Obtain Source Plasma for Preparation of Specific Immune Globulins.	Do.
Guidance on Assessment of the Reproductive Toxicity Potential of Preventative Vaccines for Infectious Diseases.	Do.
Guidance on the U.S. Minimum Standards (formerly U.S. Minimum Requirements) for Tetanus and Diphtheria Toxoid Containing Products.	Do.
CATEGORY—OTHER	
Guidance on the Development and Use of Comparability Protocols.	Do.

III. Center for Devices and Radiololgical Health (CDRH)

Title/Topic of Document	Contact
Preparation of IDE's for Spinal Systems.	Samie N. Allen, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3090.
Preclinical and Clinical Data and Labeling for Breast Prostheses.	Do.
Ultra High Molecular Weight Polyethylene (UHMWPE) Guidance.	John S. Goode, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2036.
Bone Cement Guidance.	Hany W. Demian, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2036.
Adhesion Prevention Guidance.	Dave B. Berkowitz, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3090.
Neuroembolization Guidance.	Keith E. Foy, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3090.
Dura Substitutes Guidance.	Ann H. Costello, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1184.
Guidance on Labeling for Laboratory Tests.	Steve I. Gutman, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1905.
Over the Counter Luteunizing Hormone Assays.	Jean M. Cooper, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1243.
Over the Counter Human Chorionic Gonadotropin Assays (Revision).	Do.
Quality Control Guidance (Revision).	Do.
Point of Care In Vitro Diagnostics.	Do.
Guidance for Premarket Submissions for Kits for Screening Drugs of Abuse to Be Used By The Consumer (Revision).	Do.

Title/Topic of Document	Contact
Review Criteria for Assessment of Portable Blood Glucose In Vitro Diagnostic Devices Using Glucose Oxidase, Dehydrogenase, or Hexokinase Methodology (Revision).	Do.
Criteria for a Streamline PMA for Early Detection of PSA.	Peter E. Maxim, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1293.
Abbreviated 510(k) Submission for In Vitro Diagnostic Antinuclear Antibody (ANA) Immunological Test Systems.	Do.
Points to Consider for Cervical Cytology Devices (Revision).	Do.
Draft Guidance for 510(k) Submission of Lymphocyte Immunophenotyping IVD's using Monoclonal Antibodies (Revision).	Do.
Review Criteria for Assessment of Antimicrobial Susceptibility Devices (Special Control).	Woody Dubois, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2096.
Premarket Approval Applications for In Vitro Diagnostics Devices Pertaining to Hepatitis C Viruses (HCV): Assays Intended for Diagnosis, Prognosis, or Monitoring of HCV Infection, Hepatitis C, or Other HCV-associated Disease.	Do.
Oral Appliance For Snoring And Sleep Apnea.	Sandy L. Shire, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5283.
General Hospital IV Administration Sets.	Pat M. Cricenti, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8879.
IV flushes.	Do.
Infrared Thermometers.	Do.
Jet Injectors.	Do.
Infection Control Expiration Dating of Medical Glove.	Chiu C. Lin, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8913.
Biological Indicators.	Do.
Chemical Indicators.	Do.
Renal Dialyzer Reprocessing.	Do.
Liquid Sterilizers and High Level Disinfectants.	Do.
General Purpose Washers/Disinfectants.	Do.
Heart Valve Guidance (Revision).	Thomas J. Callahan, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8252.
Cardiac Ablation: Atrial Fibrillation Clinical Study Design.	Dina J. Fleischer, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8517.
Cardiac Ablation: Pre-clinical Testing.	Barbara A. Zimmerman, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8517.
Cardiac Ablation: SVT Clinical Study Design.	Stuart M. Portnoy, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8517.
Cardiac Ablation: Atrial Flutter Clinical Study Design.	Jennifer L. Goode, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8517.
Percutaneous Transluminal Angioplasty (PTA) Catheters.	Christopher M. Sloan, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8243.
Applications for Permanent Pacemaker Leads.	Lynette A. Gabriel, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8243.
Implantable Defibrillator Guidance Document.	Doris J. Terry, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8609.
Replacement Rechargeable Batteries 510(k)s.	Charles S. Ho, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8609.
Extracorporeal Membrane Oxygenators (ECMO).	Thinh Nguyen, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8252.
Compressible Limb Sleeves.	Do.
Telemetry Guidance.	Do.
Electromagnetic Compatibility Guidance (Revision).	Do.
Roller Pump Special Control.	Do.
Arrhythmia Detector and Alarm including ST Segment Monitor and Alarm (Revision).	Carole C. Carey, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–8252.

Title/Topic of Document	Contact
External Cardiac Defibrillators (including AED's).	Do.
Multifunction Electrodes (a subset of the External Defibrillators).	Do.
510k Biopsy Devices Guidance (Revision).	Mary Beth Abt, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2194.
510(k) Irrigation Set Checklist (Revision).	Do.
Testicular Implant Guidance Document (Revision).	John H. Baxley, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2194.
Inflatable Penile Implant Guidance Document (Revision).	Do.
Content of PMA Application for Testicular Implants (Revised).	Do.
Content of PMN for Extracorpreal Shock Wave (Revised).	Do.
Lithrotriptor indicated for the fragmentation of kidney and ureteral calculi.	Do.
510(k) Enuresis Alarm Checklist (Revision).	Do.
510(k) Antimicrobial Foley Guidance (Revision).	Laura J. Byrd, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2194.
510(k) Electrical Surgical Unit Checklist (Revision).	Do.
510(k) Non-implantable Electrical Stim. Checklist (Revision).	Do.
Vesicoureteral Reflux Guidance Doc. (New).	Hector H. Herrera, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2194.
510(k) Urodynamic Systems Guidance Document (Revision).	Do.
BPH Guidance Document (Revision).	Mil J. Jevtich, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2194.
Urethral Bulking Agent Guidance (Revision).	Rao Nimmagadda, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2194.
510(k) Condom Catheter Checklist (Revision).	Do.
External Penile Rigidity Device Guidance (New).	Jim Seiler, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2194.
510(k) Urine Drainage Bag Guidance (Revision).	Do.
Urethral Stent Guidance Document (Revision).	Do.
Artificial Urinary Sphincter Guidance (Revision).	Nicole L. Wolanski, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2194.
510(k) Balloon Catheter Guidance Document (Revision).	Do.
510(k) Mechanical Lithrotriptor/Stone Dislodger (Revision).	Do.
510(k) Light Sources checklist (Revision).	Do.
510(k) Endoscope Guidance (Revision).	Mary Jo Cornelius, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2194.
Thermal Endometrial Ablation Devices Submission Guidance for an IDE (Revision).	Veronica A. Price, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1180.
Guidance for Content of Premarket Notification for Conventional and High Permeability hemodialysers (Revision).	Carolyn Y. Neuland, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1220.
Guidance for Premarket Notification for Hemodialysis Delivery System (Revision).	Do.
Guidance for Industry and CDRH Rev. of Content of Premarket Notification for Perioneo–Venous Shunts (Revision).	Do.
Guidance for Content of Premarket Notification of Body Composition Analyzers (Revision).	Do.
Guidance of Content of Investigational Device Exemption (IDE) for Solutions for hypothermic flushing, transport and storage of organs and transplantation (Revision).	Do.
Guidance on Devices in Invitro Fertilization and other Assisted Reproduction procedures (Revision).	Elisa D. Harvey, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1220.
Guidance for Submission of Bone Sonometer Premarket Applications (PMS's) (Revision).	Robert A. Phillips, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1212.
Guidance for Brachytherapy Source 510(k)s (Revision).	Do.
Guidance for Radiation Therapy Systems Software Testing (Revision).	Do.
Diagnostic Ultrasound Guidance (Revision).	Do.

Title/Topic of Document	Contact
Guidance for Manufacturing of Digital Mammography Devices (Revision).	William M. Sacks, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1212.
Guidance for Manufacturers of Bone Ultrasound Devices for Osteoporosis (Revision).	Do.
Guidance for Preparation of Bone Sonometer PMA Submissions (Revision).	Joe Arnaudo, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1212.
Guidance for Review of Bone Densitometer 510(k) Submissions (Revision).	Do.
Extended Wear Contact Lens Guidance, Including Clinical Studies.	Karen Warburton, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1744.
Guidance on Post Market Studies for Extended Wear Contact Lenses.	Do.
Orthokeratology Contact Lens Clinical Study Guidance.	Eleanor M. Felton, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1744.
Labeling Guidance for UV Absorbing Contact Lenses.	Do.
510k Guidance Document for Daily Wear Contacts (Revision).	Do.
Guidance for the Arrangement and Content of a Premarket Approval (PMA) Application for an Implantable Middle Ear Hearing Device.	Teri Cygnarowicz, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2080.
Guidance for the Arrangement and Content of a Premarket Approval (PMA) Application for a Cochlear Implant for Children (Revision).	Do.
Guidance for the Arrangement and Content of a Premarket Approval (PMA) Application for a Cochlear Implant for Adults (Revision).	Do.
Guidance for the Development of a Premarket Notification for a Disposable Sterile Ear, Nose and Throat Endoscope Sheath with Protective Barrier Claims (Revision).	Karen H. Baker, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2080.
Guidance for the Development of a Premarket Notification for Vocal Cord Medialization Devices.	Do.
Scanning Laser Ophthalmoscopes.	Everette T. Beers, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2018.
Electrosurgical Devices.	Do.
Microkeratomes.	Do.
Refractive Lasers (Revision).	Do.
Interocular Lenses Guidance Document (Revision).	Donna R. Lochner, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2053.
Refractive Implants Guidance Document.	Ashley A. Boulware, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2053.
Draft Guidance for Industry on the Custom Device Exemption of the Federal Food, Drug, and Cosmetic Act (Level 1).	Casper Uldrik, Office of Compliance, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–4692.
Draft Guidance for Industry on the Likelihood of Facilities Inspections When Modifying Devices Subject to PMA Approval (Level 1).	Do.
Draft Guidance for Industry on Quality System Regulation Information Required for Various Premarket Submissions. (Level 1).	Do.
Draft Compliance Program Guidance Manual: Inspection of Medical Device Manufacturers (Level 1).	Do.
Guidance to Industry on the information to be provided under 21 CFR 1020.30(g). (Level 1) This will be effective immediately based on the public health exemption, per Linda Kahan and Dr. Jacobson.	Do.
Guidance to Industry on the alternative use of the statement ''Rx only.'' (Level 1).	Do.
Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #2 (Final).	Charles A. Finder, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3332.
Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #4.	Do.
Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #5.	Do.
Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #6.	Do.
Compliance Guidance: The Mammography Quality Standards Act Final Regulations Document #7.	Do.

Title/Topic of Document	Contact
Mammography Quality Standards Act (MQSA) Inspections of Mobile Facilities Under the Final Regulations.	Walid G. Mourad, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–3332.
MQSA Inspections of Digital Mammography Systems Under the Final Regulations.	Do.
Bayesian Statistics.	Laura Alonge, Office of Surveillance and Biometrics, Center for Devices and Radiological Health (HFZ–500), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2812.
Discrepant Resolution.	Do.
Diagnostic Devices (statistics).	Do.
Medical Device Reporting (MDR) Regulations: Reporting Adverse Events Associated with Medical Device Reprocessing or Medical Device Reuse.	Do.
MDR Guidance for Importers.	Do.
Non-diagnostic Devices (statistics) (Revision).	Do.
MDR Reporting for Endosseous Implants (Revision).	Do.
Guidance for Manufacturers for Preparation of Postmarket Surveillance Plans Required Under Section 522 of the Federal Food, Drug, and Cosmetic Act (Revision).	Do.

IV. Center for Drugs Evaluation and Research (CDER)

Title/Topic of Document	Contact
CATEGORY—ADVERTISING	
Accelerated Approval Products: Submission of Promotional Materials.	Nancy E. Derr, Center for Drug Evaluation and Research (HFD–5), Food and Drug Administration, 1451 Rockville Pike, Rockville, MD 20852, 301–594–5400.
Advertising and Labeling of Treatment IND Protocols.	Do.
Anti–Infective Human Drug and Biological Products Advertising and Promotional Labeling.	Do.
Comparative Claims in Advertising and Labeling.	Do.
Continuing Medical Education.	Do.
Fair Balance.	Do.
Health Related Quality of Life Claims.	Do.
Informercials.	Do.
Promotion of Investigational Products.	Do.
Promotion of Medical Products on the Internet.	Do.
Promotion at International Meetings.	Do.
Proprietary (Brand) Name & Established (Generic) Name Placement, Size, & Prominence in Advertising and Promotional Labeling.	Do.
Providing Electronic Submissions to the Division of Drug Marketing, Advertising, and Communications.	Do.
CATEGORY—BIOPHARMACEUTICS	
Food–Effect Bioavailability and Bioequivalence Studies.	Do.
Oral Inhalation Drug Products; In Vivo Bioavailability and Bioequivalence.	Do.
Pharmacokinetics Metrics for Bioavailability/Bioequivalence.	Do.
CATEGORY—CHEMISTRY	
BAC PAC II—Bulk Actives Postapproval Changes (Re: Postapproval Changes from the Final Intermediate to the Drug Substance).	Do.
Comparability Protocol for Making Changes to Chemistry, Manufacturing, and Controls for Drug and Biological Products.	Do.
Drug Master Files; General Content and Format.	Do.
Drug Master Files for Bulk Antibiotic Drug Substances.	Do.
Formal Meetings Between CDER/CBER and Sponsors on Chemistry, Manufacturing and Controls Information for IND Studies of Drugs, Including Specified Therapeutic Biotechnology-Derived Products.	Do.
ISPE for SUPAC TDS.	Do.
ISPE for SUPAC SS.	Do.
Methods Validation for the Assay of Drugs And/or Metabolites in Human Biological Matrices.	Do.
Post Approval Changes for Sterile Aqueous Solutions.	Do.
Proprietary Drug Names.	Do.
Provides Recommendation Regarding Submission of Information for Drug Products Containing Cyclodextrin.	Do.
Recombinant DNA Growth Hormone Drug Products.	Do.

Title/Topic of Document	Contact
Recombinant DNA Human Insulin Drug Products.	Do.
Revision to the SUPAC IR Guidance Document That Published in November 1995.	Do.
Submission of Documentation for Antibiotics and Other Cellular Metabolites Produced by Microorganisms Modified by the Use of Recombinant DNA Technology.	Do.
Submission of CMC Information for Synthetic Peptide Substances.	Do.
Submission of CMC and Biopharm Information for Liposomal and Lipid-Complexed Drug Products.	Do.
Submission of Chemistry, Manufacturing, and Controls Documentation for Inhalation Drug Products: MDI's and DPI's.	Do.
Submission of CMC Information on Chiral Drugs.	Do.
Submitting Manufacturing and Quality Control Information with INDs, NDAs, ANDA's, and AADA's.	Do.
SUPAC TDS.	Do.
CATEGORY—CLINICAL/ANTIMICROBIAL	
Acute Bacterial Arthritis; Developing Antimicrobials for Treatment.	Do.
Agents to Treat Opportunistic Infections Related to AIDS; Developing Antimicrobials for Treatment.	Do.
Agents Used in Surgical Prophylaxis, Developing Antimicrobials for Treatment.	Do.
Agents to Treat Sepsis/Septic Shock; Developing Antimicrobials for Treatment.	Do.
Antifungal Agents; Developing Antimicrobials for Treatment.	Do.
Antimycobacterial Agents; Developing Antimicrobials for Treatment.	Do.
Antiparasitic Agents; Developing Antimicrobials for Treatment.	Do.
Antiviral Agents; Developing Antimicrobials for Treatment.	Do.
Catheter–Related Infections.	Do.
Complicated Intra–Abdominal Infections; Developing Antimicrobials for Treatment.	Do.
Clinical Considerations for Accelerated and Traditional Approval of Antiretroviral Drugs Using Plasma HIV RNA Measurements.	Do.
Dermatologic Surgical Scrubs, Etc., Developing Antimicrobials for Treatment.	Do.
Endocarditis; Developing Antimicrobials for Treatment.	Do.
Gynecologic Infections (Except Sexually Transmitted Disease and Pelvic Inflammatory Disease); Developing Antimicrobials for Treatment.	Do.
Helicobacter Pylori Infections; Developing Antimicrobials for Treatment.	Do.
Immunologic/Transplant Agents; Developing Antimicrobials for Treatment.	Do.
Nongonoccocal Urethritis/Cervicitis; Developing Antimicrobials for Treatment.	Do.
Osteomyelitis (Acute and Chronic); Developing Antimicrobials for Treatment.	Do.
Pelvic Inflammatory Disease; Developing Antimicrobials for Treatment.	Do.
Uncomplicated Intra–Abdominal Infections; Developing Antimicrobials for Treatment.	Do.
CATEGORY—CLINICAL/MEDICAL	
Clinical Development for Drugs to Treat Urinary Incontinence.	Do.
Clinical Development Programs for MDI and DPI Drug Products Revised.	Do.
Clinical Evaluation of Drugs for the Treatment of Acute Coronary Syndrome.	Do.
Clinical Evaluation of Drugs for the Treatment of Heart Failure.	Do.
Clinical Development Programs for Drugs, Devices, and Biological Products Intended for the Treatment of Osteoarthritis.	Do.
Clinical Development of Drugs for the Treatment of Allergic Rhinitis Revised.	Do.
Clinical Evaluation of Drugs for Ulcerative Colitis.	Do.
Clinical Evaluation of Weight–Control Drugs Revised.	Do.
Clinical Development of Products for the Treatment of Chronic Cutaneous Ulcers and Acute Burn Wounds.	Do.
Clinical Evaluation of Lipid–Altering Agents Revised.	Do.
Clinical Evaluation of Estrogen—and Estrogen/Progestin–Containing Drug Products Used for Hormone Replacement Therapy in Postmenopausal Women.	Do.
Clinical Evaluation of Motility Modifying Drugs.	Do.
Clinical Evaluation of Drugs for Crohn's Disease.	Do.

Title/Topic of Document	Contact
Clinical Development of Drugs for the Treatment of Chronic Sinusitis (Other than Antimicrobials).	Do.
Clinical Evaluation of Potential ECG Effects of New Antihistamines Revised.	Do.
Content and Format of the Clinical Studies Section of Labeling for Human Drugs and Biologics.	Do.
Content and Format for Submission of Carcinogenicity Protocols for Evaluation.	Do.
Content and Format of the Adverse Reactions Section of the Labeling.	Do.
Data Monitoring and Interim Analysis of Clinical Studies Performed Under an IND.	Do.
Design and Endpoint Issues Related to Treatment Trials for Female Sexual Disfunction.	Do.
Developing Clinical Programs for Developing Drugs, Devices and Biological Products for the Treatment of Systemic Lupus Erythematosus.	Do.
Evaluation of New Treatments for Diabetes Mellitus.	Do.
Evaluation of Growth Effects of Orally Inhaled and Intranasal Corticosteroids in Asthma and Allergic Rhinitis.	Do.
H.Pylori Ulcer.	Do.
NSAID Ulcer.	Do.
Performance of Clinical Trials for Gastroduodenal Ulcer Disease.	Do.
Postmarketing Adverse Experience Reporting for Human Drug and Licensed Biological Products.	Do.
Preclinical and Clinical Evaluation of Agents Used in the Prevention or Treatment of Postmenopausal Osteoporosis Revised.	Do.
Preclinical Development of Inhalation Drugs for Indications in Children 2 Years of Age or Less.	Do.
Psoriasis Therapies.	Do.
Safety Review of Clinical Data; Reviewer Guidance.	Do.
Ulcers Not Due to H.Pylori or NSAID.	Do.
Ulcers Without Consideration of Pathogenesis.	Do.
Vaginal Contraceptive Drug Development Revised.	Do.
CATEGORY—CLINICAL/PHARMACOLOGY	
Clinical Pharmacology and Biopharmaceutic Data for Human Drug Products.	Do.
Failed Bioequivalence.	Do.
Format and Content of the Clinical Pharmacology Section of Prescription Drug Product Labeling.	Do.
General Considerations for Pediatric Pharmacokinetic Studies.	Do.
Immediate Release to Modified Release Dosage Forms.	Do.
In Vitro Drug Metabolism/Drug Interaction.	Do.
Pharmacokinetics in Patients with Impaired Hepatic Function: Study Design, Data Analysis, and Impact on Dosing and Labeling.	Do.
Pharmacokinetics and Pharmacodynamics.	Do.
Special Initiative: Narrow Therapeutic Index (Range).	Do.
Submission of Expanded Synopses for Clinical Pharmacology and Biopharmaceutics Studies.	Do.
CATEGORY—COMPLIANCE	
Civil Money Penalty Cases Under PDMA.	Do.
Development, Implementation, and Maintenance of a Sample Security and Audit System under the Prescription Drug and Marketing Act of 1987.	Do.
First Party Audit.	Do.
Information Required for Pre–Approval GMP Inspections.	Do.
Maintaining Adequate and Accurate Records During Clinical Investigations.	Do.
National Drug Code Number and Drug Product Labels.	Do.
Sterile Drug Products Produced by Aseptic Processing Revised.	Do.
Submission to an IND of Investigator Information for Non–US Studies.	Do.
Waiver of Informed Consent Requirements for Emergency Care Research.	Do.
CATEGORY—ELECTRONIC SUBMISSIONS	
Electronic Submission of Adverse Reaction Data via Physical Media.	Do.
Preparing Data for Electronic Submissions of ANDA's.	Do.
Standards for Electronic Safety Data Submissions.	Do.
CATEGORY—GENERICS	
Botanical Drug Products.	Do.
Changes in Labeling of ANDA's Subsequent to Revisions in the RLD Labeling.	Do.

Title/Topic of Document	Contact
Clindamycin Intravenous Labeling.	Do.
OGD's Policy on Inactive Ingredients.	Do.
Submitting Documentation to Abbreviated Drug Applications for Degredation Products in Drug Products.	Do.
Variation in Drug Product That May Be Included in a Single Application.	Do.
CATEGORY—LABELING	
Content and Format for ''Geriatric Use'' Supplemental Applications.	Do.
Labeling Guidance for Combined Oral Contraceptives—Physician Labeling and Instructions for Use Revised.	Do.
Topical Corticosteroid Class Labeling.	Do.
CATEGORY—OTC	
Eye Allergy Relief/Allergic Conjunctivitis.	Do.
Labeling of OTC Human Drug Products.	Do.
Labeling Comprehension Studies for OTC Drug Products.	Do.
Manufacturing Issues/Policy for Ophthalmic Drug Products.	Do.
Points to Consider—OTC Actual Use Studies.	Do.
Post Cataract Inflammation Studies.	Do.
Removal of a Preservative to Create a ''Preservative Free'' Ophthalmic Solution.	Do.
The Small Entity Compliance Guidance On: Regulations for the Labeling of Over-the-counter Human Drugs.	Do.
Uveitis Studies.	Do.
CATEGORY—PHARMACOLOGY/TOXICOLOGY	
Evaluation of Preclinical Reproductive Toxicology Data.	Do.
Immunotoxicology.	Do.
Photo Safety Testing.	Do.
Statistical Aspects of Design, Analysis, and Interpretation of Animal Carcinogenicity Studies.	Do.
Testing for Photocarcinogenesis.	Do.
CATEGORY—PROCEDURAL	
Available Therapy Guidance (As Defined by CDER and CBER).	Do.
Appeal of Center Regulatory and Scientific Decisions.	Do.
Applications Pursuant to 505 (B)(2).	Do.
Clarify Requirements for Submission of Supplements.	Do.
Formal Meetings Between CDER and Sponsors and Applicants for PDUFA Products.	Do.
Health Care Economic Information.	Do.
Meetings Between CDER and External Constituents on Non-PDUFA Products.	Do.
New Drug Evaluation: Refusal to File.	Do.
Qualifying for Pediatric Exclusivity Revised.	Do.
Reports on the Status of Postmarketing Studies—Implementation of Section 130 of FDAMA.	Do.
Special Protocols for the Content and Review of Applications.	Do.
Submission of Debarment Certification Statements and Other Information under the Generic Drug Enforcement Act of 1992.	Do.
Submitting Requests for Waiver or Deferral under the Pediatric Study Requirements.	Do.
CATEGORY—USER FEES	
Assessment of Product, Establishment, and Application Fees.	Do.
User Fee Waivers and Reductions.	Do.

V. Center for Food Safety and Applied Nutrition (CFSAN)

Title/Topic of Document	Contact
CATEGORY—ENVIRONMENTAL	
Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition.	Buzz L. Hoffman, Office of Premarket Approval (HFS–246), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3012.
CATEGORY—ANTIMICROBIAL FOOD ADDITIVES	
Antimicrobial Food Additives.	Mark A. Hepp, Office of Premarket Approval (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098
CATEGORY—PREMARKET NOTIFICATION FOR FOOD CONTACT SUBSTANCES	

Title/Topic of Document	Contact
Draft Guidance for Preparing a Premarket Notification for Food Contact Substances.	Mitch A. Cheeseman, Office of Premarket Approval (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3083
CATEGORY—DIETARY SUPPLEMENTS	
Dietary Supplements: Questions and Answers.	Ellen M. Anderson, Office of Food Labeling (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5562
Dietary Supplements: Identity Testing Guidelines.	Karen F. Strauss, Office of Special Nutritionals (HFS–456), Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202–205–4168

VI. Center for Veterinary Medicine (CVM)

Title/Topic of Document	Contact
CATEGORY—FOOD ADDITIVES	
Data Requirements for Demonstrating a Food Additive Can Contro *Salmonella* in Feed.	George Graber, Center for Veterinary Medicine (HFV–220), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6651.
Data Requirements for Demonstrating a Food Additive Binds Mycotoxins.	Do.
CATEGORY—MICROBIAL PRODUCTS IN FEEDS	
Compliance Policy Guide about Microbial Products.	Do.
CATEGORY—HUMAN FOOD SAFETY	
Disposition of Animals Used in Research and in the Manufacture of Biomedical Products.	Linda R. Tollefson, Center for Veterinary Medicine (HFV–200), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6644.
Threshold Assessment Guidance.	Devaraya R. Jagannath, Center for Veterinary Medicine (HFV–153), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6982.
Tolerance Guidance.	Steven Brynes, Center for Veterinary Medicine (HFV–151), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6975.
Risk Analysis Guidance.	Kevin J. Greenlees, Center for Veterinary Medicine (HFV–153), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6977.
Animal Drug Availability Act Import Tolerance Policy.	Do.
Microbiological Testing of Antimicrobial Drug Residues in Food Guidance.	Do.
CATEGORY—SUBSTANTIAL EVIDENCE	
One v. Multiple Adequate and Well-controlled Studies/Field Studies.	Claire M. Lathers, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1620.
Use of Published Studies.	Do.
Dose or Dose Range Characterization.	Do.
CATEGORY—MANUFACTURING CHEMISTRY	
Stability Guidance.	William G. Marnane, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6966.
Guidance on Chemistry and Manufacturing Changes and Good Manufacturing Practices Requirements for Minor Use/Minor Species Drug Products.	Do.
Guidance on Chemistry and Manufacturing and Controls Changes to an Approved NADA or ANADA.	Dennis M. Bensley, Center for Veterinary Medicine (HFV–143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6956.
Stability Testing of New Drug Substances and Products in the Veterinary Field.	William G. Marnane, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6966.
Stability Testing of New Dosage Forms in the Veterinary Field.	Do.
Stability Testing for Medicated Premixes.	Do.
Stability Testing: Photostability Testing of New Drug Substances and Products in the Veterinary Field.	Do.
Guidance for Industry, BACPAC I: Intermediates in Drug Substance Synthesis - Bulk Actives Postapproval Changes: Chemistry, Manufacturing and Controls Documentation.	David R. Newkirk, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6967.
CATEGORY—TARGET ANIMAL SAFETY AND EFFECTIVENESS STUDIES FOR PRODUCTION DRUGS	

Title/Topic of Document	Contact
Anticoccidials in Poultry Guidance.	Jeffrey M. Gilbert, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0233.
CATEGORY—TARGET ANIMAL SAFETY AND EFFECTIVENESS STUDIES FOR THERAPEUTIC DRUG USES	
Non–Steroidal Anti-inflammatory Drug Guidance.	Elizabeth Reese, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0132.
Competitive Exclusion Guidance.	Steven D. Vaughn, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7580.
Minor Species Simulated Pharmacokinetic Submissions.	Marilyn Martinez, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7577.
CATEGORY—OTHER PRE–MARKETING	
Bioequivalence of Continual Release Drugs Such as Implant Drugs.	Marilyn Martinez, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7577.
Correlation of In-vitro Dissolution and In-vivo Bioavailability.	Do.
FOI Summary Guidance.	Steven Vaughn, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7580.
CATEGORY—STATISTICS	
Add Log C I Guidance to Bioequivalence Guidance.	Anna Nevius, Center for Veterinary Medicine (HFV–124), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855,301–827–0218.
Principles of Statistical Analysis relevant to Regulatory Studies.	Do.
CATEGORY—ELECTRONIC SUBMISSIONS	
Submitting a Notice of Final Animal Disposition of Animals not Intended for Slaughter in Electronic Format to the CVM via E–Mail.	Janis R. Messenheimer, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578.
Submitting a Notice of Intent to Slaughter for Human Purposes in Electronic Format to the CVM and USDA via E–Mail.	Do.
Submitting a Request for Meeting or Teleconference in Electronic Format to the CVM via E–Mail.	Do.
Submitting a Protocol in Electronic Format to the CVM via E–Mail.	Do.
CATEGORY—ANALYTICAL METHODS	
Guidance Document on the Validation of Analytical Procedures for Medicated Feeds.	Mary Leadbetter, Center for Veterinary Medicine (HFV–143), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6964.
Guidance Document on Analytical Method Documents for Medicated Feeds.	Do.
Guidance Document on Protocols for Conduct of Method Transfer Trials for Medicated Feed Assays.	Do.

VII. Office of Regulatory Affairs (ORA)

Title/Topic of Document	Contact
CATEGORY—COMPLIANCE POLICY GUIDES	
Compliance Policy Guide, Chapter 5, Sec.540.400, Shrimp—Fresh or Frozen, Raw, Headless, Peeled or Breaded—Adulteration Involving Decomposition (CPG 7108.11).	MaryLynn A. Datoc, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0413.
Compliance Policy Guide, Chapter 5, 540.650, Sale—Cured, Air–Dried, Uneviscerated Fish (e.g.,''Kapchunka'')(CPG 7108.17).	Do.
Compliance Policy Guide (NEW) Regulation of Somatic Cell and Tissue–Based Products.	JoAnne C. Marrone, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1242.
CATEGORY—COMPLIANCE PROGRAMS: BIORESEARCH MONITORING	
Food Laboratory Practice Program (Nonclinical Laboratories) 7348.808A: EPA Data Audit Inspections.	James F. McCormack, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0425.
Compliance Program7348.809: Bioresearch Monitoring; Institutional Review Board.	Do.
Exception for Informed Consent Requirements for Emergency Research.	Do.
CATEGORY—INSPECTION GUIDES	

Title/Topic of Document	Contact
Guide to Inspections of Source Plasma Establishments.	Elizabeth A. Waltrip, Division of Emergency and Investigational Operations (HFC–132), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5662.
Guide to Inspections of Aseptic Processing and Packaging (Food).	Jody Robinson, Division of Emergency and Investigational Operations (HFC–132), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7691.
CATEGORY—REGULATORY PROCEDURES MANUAL	
Regulatory Procedures Manual (Revision), Chapter 10, Subchapter: Application Integrity Policy.	Sharon Sheehan, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0412.
CATEGORY—LABORATORY PROCEDURES MANUAL	
Chapter 1, Sample Accountability.	Jim Yager, Division of Field Science (HFC–140), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1025.
Chapter 2, Sample Analysis.	Do.
Chapter 3, Laboratory Reporting.	Do.
Chapter 4, Sample Disposition.	Do.
Chapter 21, Guidance on the Review of Analytical Data Generated by Private Laboratories.	Leonard Valenti, Division of Field Science (HFC–140), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–7103.

Dated: November 4, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–29699 Filed 11–12–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–3027–N]

Medicare Program; Meeting of the Executive Committee of the Medicare Coverage Advisory Committee—December 8, 1999

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Executive Committee of the Medicare Coverage Advisory Committee (MCAC). The Committee provides advice and recommendations to the agency about clinical coverage issues. The Committee will hear reports from recent meetings of MCAC medical specialty panels. The Committee will also consider how to provide guidance to, and substantive coordination among, MCAC panels. For example, the Committee will consider the levels of evidence, types of information needed, and the nature of issues that will be considered by the medical specialty panels at future public meetings. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10 (a)(1) and (a)(2)).

DATES:

The Meeting: December 8, 1999, from 8 a.m. until 4 p.m., E.D.T.

Deadline for Presentations and Comments: Submit formal presentations and written comments to the **FOR FURTHER INFORMATION CONTACT** by November 18, 1999, 5 p.m., E.S.T.

Special Accomodations: Persons attending the meeting who are hearing or visually impaired and have special requirements, or a condition that requires special assistance or accommodations, must notify the Executive Secretary by November 18, 1999, 5 p.m., E.D.T.

ADDRESSES:

The Meeting: The meeting will be held at the Health Care Financing Administration, Main Auditorium, 7500 Security Boulevard, Baltimore, Maryland 21244.

Presentations and Comments: Submit formal presentations and written comments to Sharon K. Lappalainen, Executive Secretary; Office of Clinical Standards and Quality; Health Care Financing Administration; 7500 Security Boulevard; Mail Stop S3–02–01; Baltimore, MD 21244.

Website: You may access up-to-date information on this meeting at www.hcfa.gov/quality/8b.htm.

SUPPLEMENTARY INFORMATION:

On August 13, 1999, we published a notice (64 FR 44231) to establish the Medicare Coverage Advisory Committee (MCAC) to provide advice and recommendations to us about clinical coverage issues. This notice announces the following public meeting of the MCAC:

Current Members of the Committee

Thomas V. Holohan, M.A., M.D., (FACP); Leslie P. Francis, JD, Ph.D.; John H. Ferguson, M.D.; Robert L. Murray, Ph.D.; Alan M. Garber, M.D., Ph.D.; Michael D. Maves, M.D., M.B.A.; David M. Eddy, M.D., Ph.D.; Frank J. Papatheofanis, M.D., Ph.D.; Harold C. Sox, M.D.; Ronald M. Davis, M.D.; Daisy Alford-Smith, Ph.D.; Joe W. Johnson, D.C.; Robert H. Brook, M.D., Sc.D.; Linda A. Bergthold, Ph.D.; and Randel E. Richner, M.P.H.

Meeting Topic

The Committee will hear reports from recent meetings of MCAC medical specialty panels. The Committee will also consider how to provide guidance to, and substantive coordination among, MCAC panels. For example, the Committee will consider the levels of evidence, types of information needed, and the nature of issues that will be considered by the medical specialty panels at future public meetings.

Procedure and Agenda

This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 90 minutes on the day of the meeting. The Committee may limit the number and duration of oral presentations to the time available. If you wish to make formal presentations, you must notify the **FOR FURTHER INFORMATION CONTACT**, and submit the following by the Deadline for Presentations and Comments date listed in the Dates section of this notice: a brief statement of the general nature of the information you wish to present, the

names and addresses of proposed participants, and an estimate of the time required to make the presentation. We will request that you declare at the meeting whether or not you have any financial involvement with manufacturers of any items or services being discussed (or with their competitors).

After public presentation, we will make a presentation to the Committee. After our presentation, the Committee will deliberate openly on the topic. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. At the end of the Committee deliberations, the Committee will allow a 30-minute open public session for any attendee to address issues specific to the topic. After which, the members will vote and the Committee will make its recommendation.

Authority: 5 U.S.C. App. 2, section 10 (a)(1) and (a)(2).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 5, 1999.

Jeffrey L. Kang,

Director, Office of Clinical Standards and Quality, Health Care Financing Administration.

[FR Doc. 99–29670 Filed 11–12–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Publication of the OIG's Compliance Program Guidance for Medicare+Choice Organizations Offering Coordinated Care Plans

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice.

SUMMARY: This **Federal Register** notice sets forth the Compliance Program Guidance for Medicare+Choice Organizations Offering Coordinated Care Plans (''Medicare+Choice organizations'') that was recently issued by the Office of Inspector General (OIG). The OIG has previously developed and published compliance program guidance focused on other areas of the health care industry. We believe that the development and issuance of this compliance program guidance for Medicare+Choice organizations will continue to serve as a positive step toward promoting a high level of ethical and lawful conduct throughout the entire health care industry.

FOR FURTHER INFORMATION CONTACT: Barbara Frederickson, Office of Counsel to the Inspector General, (202) 619–2078.

SUPPLEMENTARY INFORMATION:

Background

The creation of compliance program guidance continues to be a major initiative by the OIG in its effort to engage the health care community in combating fraud and abuse. In formulating compliance guidance, the OIG has worked closely with the Health Care Financing Administration (HCFA), the Department of Justice (DOJ) and various sectors of the health care industry to provide clear guidance to the industry. The previously-issued compliance program guidances addressed six areas: the hospital industry; home health agencies; clinical laboratories; third-party medical billing companies; the durable medical equipment, prosthetics, orthotics and supply industry; and hospices. The development of these compliance program guidances is based on our belief that a health care provider can use internal controls to more efficiently monitor adherence to applicable statutes, regulations and program requirements.

Guidance for Medicare+Choice Organizations

On September 22, 1998, the OIG published a solicitation notice seeking information and recommendations for developing formal guidance for Medicare+Choice organizations (63 FR 50577). In response to that solicitation notice, the OIG received five comments from the industry and their representatives. After careful consideration of those initial comments, and in an effort to ensure that all parties had a reasonable opportunity to provide input into a final product, the OIG published draft guidance for Medicare+Choice organizations on June 24, 1999 (64 FR 33869) for further comment and recommendations. A total of 16 timely-filed comments were received for consideration by the OIG in response to the publication of that draft guidance.

Elements for an Effective Compliance Program

Through experience, the OIG has identified seven fundamental elements to an effective compliance guidance program that are being reflected in this latest issuance. They are:

- Implementing written policies, procedures and standards of conduct;
- Designating a compliance officer and a compliance committee;
- Conducting effective training and education;
- Developing effective lines of communication;
- Enforcing standards through well-publicized disciplinary guidelines and developing policies addressing dealings with sanctioned individuals;
- Conducting internal monitoring and auditing; and
- Responding promptly to detected offenses, developing corrective action, and reporting to the Government.

The OIG is offering specific compliance measures that may be implemented by Medicare+Choice organizations in an effort to curtail or eliminate fraud and abuse. While HCFA regulations require Medicare+Choice organizations to implement compliance programs, adoption of the Compliance Program Guidance for Medicare+Choice Organizations Offering Coordinated Care Plans set forth below is voluntary.

A reprint of this newly-issued compliance program guidance follows:

Office of Inspector General's Compliance Program Guidance for Medicare+Choice Organizations Offering Coordinated Care Plans (November 1999)

I. Introduction

In its ongoing effort to work collaboratively with the health care industry to achieve the mutual goals of quality health care and the elimination of fraud, waste and abuse, the Office of Inspector General (OIG) of the Department of Health and Human Services (HHS) encourages voluntarily developed and implemented compliance programs for the health care industry. Fundamentally, compliance efforts are designed to establish a culture within an organization that promotes prevention, detection and resolution of instances of conduct that do not conform to Federal and State law and Federal health care program requirements, as well as the organization's ethical and business policies. In practice, the compliance program should effectively articulate and demonstrate the organization's commitment to legal and ethical conduct.

As a demonstration of the OIG's commitment to compliance, the OIG has issued recommendations, in the form of compliance program guidances, that provide suggestions regarding how specific segments of the industry can

best implement compliance programs.[1] As a result of the changing nature of the health care delivery system and the growing trend toward reliance on the managed care industry in the provision of health care in the Medicare context, the OIG believes it is appropriate to issue a guidance focusing on Medicare+Choice organizations[2] offering coordinated care plans[3] (Medicare+Choice organizations). The OIG formulated this guidance specifically for Medicare+Choice organizations because these organizations are well-defined and are subject to a comprehensive regulatory structure.[4] In addition, Congress envisioned an important role for Medicare+Choice organizations, demonstrated by the substantial amount of Federal funds received by these organizations.

The OIG encourages Medicare+Choice organizations to read the guidance with the whole organization in mind, applying the guidance to whatever departments or divisions, including private-sector managed care areas, that are deemed appropriate by that organization. Indeed, many of the suggestions in this guidance can be used by managed care organizations that do not contract with HCFA to provide a Medicare+Choice plan. In particular, entities that participate in other public health care programs, such as Medicaid, may want to look to the general principles in this document to assist them in developing compliance programs.

While the regulations implementing the Medicare+Choice program, or Part C, require a Medicare+Choice organization to establish a compliance plan,[5] the OIG's program guidance is voluntary and simply is intended to provide assistance for Medicare+Choice organizations looking for additional direction in the development of internal controls that promote adherence to applicable Federal and State law. The OIG first provides its general views on the value and fundamental principles of Medicare+Choice organizations' compliance programs, and then provides specific elements that each Medicare+Choice organization should consider when developing and implementing an effective compliance program.

A. Benefits of a Compliance Plan

The OIG believes an effective compliance program provides a mechanism that brings the public and private sectors together to reach mutual goals of reducing fraud and abuse, improving operational quality, and ensuring the provision of high quality cost-effective care. Attaining these goals benefits business, Government, individual citizens and Medicare beneficiaries alike. In addition to fulfilling its legal duties to ensure that it is not submitting false or inaccurate information to the Government or providing substandard care to Medicare beneficiaries, a Medicare+Choice organization may gain numerous additional benefits by implementing an effective compliance program. These benefits may include:

- The formulation of effective internal controls to assure compliance with Federal regulations and internal guidelines;
- Improved communication with and satisfaction of Medicare+Choice enrollees;
- The ability to more quickly and accurately react to employees operational compliance concerns and the capability to effectively target resources to address those concerns;
- A concrete demonstration to employees and the community at large of the Medicare+Choice organization's strong commitment to honest and responsible corporate conduct;
- The ability to obtain an accurate assessment of employee and contractor behavior relating to fraud and abuse;
- Improved (clinical and non-clinical) quality of care and service;
- Improved assessment tools that could affect many or all of the Medicare+Choice organization's divisions or departments;
- Increased likelihood of identification and prevention of unlawful and unethical conduct;
- A centralized source for distributing information on health care statutes, regulations and other program directives related to fraud and abuse;
- The creation or reinforcement of an environment that encourages employees to report potential problems;
- Procedures that allow the prompt, thorough investigation of possible misconduct by corporate officers, managers, employees and independent contractors;
- An improved relationship with the Center for Health Plans and Providers (CHPP) at HCFA; and
- Early detection and reporting, minimizing the loss to the Government from false or improper claims, and thereby reducing the Medicare+Choice organization's exposure to civil damages and penalties, criminal sanctions, and administrative remedies, such as program exclusion.[6]

Overall, the OIG believes that an effective compliance program is a sound business investment that has the potential of enhancing the efficiency and effectiveness of the Medicare+Choice organization. It may also improve the Medicare+Choice organization's financial structure by addressing not only fraud and abuse concerns, but efficiency and productivity concerns in other operational areas.

The OIG recognizes the implementation of an effective

[1] *See* 64 FR 58419 (10/29/99) for the draft compliance program guidance for nursing facilities; 64 FR 54031 (10/5/99) for the compliance program guidance for hospices; 64 FR 36368 (7/6/99) for the compliance program guidance for the durable medical equipment, prosthetics, orthotics and suppliers industry; 63 FR 70138 (12/18/98) for the compliance program guidance for third-party medical billing companies; 63 FR 45076 (8/24/98) for the compliance program guidance for clinical laboratories; 63 FR 42410 (8/7/98) for the compliance program guidance for home health agencies; and 63 FR 8987 (2/23/98) for the compliance program guidance for hospitals. These documents are also located on the Internet at http://www.hhs.gov/oig/.

[2] A Medicare+Choice organization is defined as a public or private entity organized and licensed by a State as a risk-bearing entity (with the exception of provider-sponsored organizations receiving waivers) that is certified by the Health Care Financing Administration (HCFA) as meeting the Medicare+Choice contract requirements (42 CFR 422.2).

[3] For the purposes of this compliance program guidance, a ''coordinated care plan'' is a plan that includes a network of providers that are under contract or arrangement with the organization to deliver the benefit package approved by HCFA (42 U.S.C. 1395w–28(a)(1); 42 CFR 422.4).

[4] In this guidance, we have focused our attention on regulations applicable to Medicare+Choice organizations governing marketing, enrollment, disenrollment, underutilization, data collection, anti-kickback statute and emergency services, rather than providing instruction on all aspects of regulatory compliance.

[5] The regulations require that any plan contracting with HCFA implement a compliance plan that encompasses the elements detailed in the Federal Sentencing Guidelines. 42 CFR 422.501(b)(vi). HCFA will release an operational policy letter addressing the compliance requirements detailed in the regulation. In response to concerns from industry representatives on the short time frame for implementing a compliance plan, HCFA delayed the actual implementation date of the compliance plan until January 1, 2000.

[6] The OIG, for example, will consider the existence of an *effective* compliance program that pre-dated any governmental investigation when addressing the appropriateness of administrative sanctions. However, the burden is on the Medicare+Choice organization to demonstrate the operational effectiveness of a compliance program. Further, the False Claims Act, 31 U.S.C. 3729–3733, provides that a person who has violated the Act, but who voluntarily discloses the violation to the Government within 30 days of detection, in certain circumstances will be subject to not less than double, as opposed to treble, damages. *See* 31 U.S.C. 3729(a). In addition, an organization will receive sentencing credit for an ''effective'' compliance program under the Federal Sentencing Guidelines. *See* United States Sentencing Commission Guidelines, *Guidelines Manual,* 8C2.5. Thus, the ability to react quickly when violations of the law are discovered may materially reduce the Medicare+Choice organization's liability.

compliance program may not entirely eliminate fraud, abuse and waste from an organization. However, a sincere effort by a Medicare+Choice organization to comply with applicable Federal and State standards, through the establishment of an effective compliance program, significantly reduces the probability of unlawful or improper conduct.

B. Application of Compliance Program Guidance

Before explaining the specific elements of a compliance program, it is important to emphasize several aspects of this document: its voluntary nature, its applicability to Medicare+Choice organizations, the collaborative nature by which it was developed, and its evolving nature.

First, it should be re-emphasized that while the regulations implementing the Medicare+Choice program, or Part C, require a Medicare+Choice organization to establish a compliance plan, including specified elements,[7] this program guidance is voluntary. Although this document presents basic procedural and structural guidance for designing a compliance program, it is not in itself a compliance program. Rather, it is a set of guidelines for consideration by a Medicare+Choice organization interested in obtaining specific information on implementing a compliance program. This guidance represents the OIG's suggestions on how a Medicare+Choice organization can establish internal controls and monitor company conduct to correct and prevent fraudulent activities.

It is critical for the Medicare+Choice organization to assess its own organization and determine its needs with regard to compliance with applicable Federal and State statutes and Federal health care program requirements. By no means should the contents of this guidance be viewed as an exclusive discussion of the advisable components of a compliance program. On the contrary, the OIG strongly encourages Medicare+Choice organizations to develop and implement compliance components that uniquely address the individual organization's risk areas.

Implementing a compliance program in a Medicare+Choice organization is a complicated venture. There are significant variances and complexities among Medicare+Choice organizations in terms of the type of services and the manner in which these services are provided to the respective members. For example, some Medicare+Choice organizations cover broad service areas, while others are focused on a particular geographic region. Similarly, the range of benefits covered differ among plans, as does the size of the network and the use of a varying number of provider contracting tiers to deliver services. Clearly, these differences may give rise to different substantive policies to ensure effective compliance. Furthermore, some Medicare+Choice organizations are relatively small, while others are fully integrated and offer Medicare+Choice plans in a wide variety of areas. Finally, the availability of resources for any one Medicare+Choice organization can differ vastly.

Notwithstanding these differences, this guidance is pertinent for all Medicare+Choice organizations, large or small, regardless of the type of services provided. The applicability of the recommendations and guidelines provided in this document may depend on the circumstances and resources of each particular Medicare+Choice organization. However, regardless of the organization's size and structure, the OIG believes every Medicare+Choice organization can and should strive to accomplish the objectives and major principles underlying all of the compliance policies and procedures recommended within this guidance.

The OIG recognizes that the success of the compliance program guidance hinges on thoughtful and practical comments from those individuals and organizations that will utilize the tools set forth in this document. In a continuing effort to collaborate closely with the private sector, the OIG solicited input and support from the public in the development of this compliance program guidance.[8] Further, we took into consideration previous OIG publications, such as Special Fraud Alerts, the recent findings and recommendations in reports issued by OIG's Office of Audit Services (OAS) and Office of Evaluation and Inspections (OEI),[9] comments from HCFA, as well as the experience of past and recent fraud investigations related to managed care organizations[10] conducted by OIG's Office of Investigations (OI) and the Department of Justice.

As appropriate, this guidance may be modified and expanded as more information and knowledge is obtained by the OIG, and as changes in the law, and in the rules, policies and procedures of the Federal and State plans occur. New compliance practices may eventually be incorporated into this guidance if the OIG discovers significant enhancements to better ensure an effective compliance program. We recognize the development and implementation of compliance programs in Medicare+Choice organizations often raise sensitive and complex legal and managerial issues.[11] However, the OIG wishes to offer what it believes is critical guidance for those who are sincerely attempting to comply with the relevant health care statutes and regulations.

II. Compliance Program Elements

The elements discussed in this guidance are similar to those of the other OIG Compliance Program Guidances[12] and our corporate integrity agreements.[13] While these same elements are required by HCFA in the Medicare+Choice regulations,[14] the OIG reiterates that this guidance is not mandatory, but simply represents OIG's recommendations on how the elements can be implemented.[15]

Every effective compliance program must begin with a formal commitment[16] by the Medicare+Choice organization's governing body to include *all* of the

[7] *See* note 5.

[8] *See* Solicitation of Information and Recommendations for Developing the OIG Compliance Program Guidance for Certain Medicare+Choice Organizations (63 FR 50577 (9/22/98)). We also requested public comment on the draft guidance (64 FR 33869 (6/24/99)).

[9] Special Fraud Alerts are available on the OIG website at http://www.hhs.gov/oig/. The recent findings and recommendations of OEI and OAS can be located on the Internet at http://www.hhs.gov/oei and http://www.hhs.gov/progorg/oas/cats/hcfa.html, respectively.

[10] These investigations include findings based upon Medicare risk-based Health Maintenance Organizations and competitive medical plans as defined in 42 U.S.C. 1395mm.

[11] Nothing stated herein should be substituted for, or used in lieu of, competent legal advice from counsel.

[12] *See* note 1.

[13] Corporate integrity agreements are executed as part of a civil settlement agreement between the health care provider and the Government to resolve a case based on allegations of health care fraud or abuse. These OIG-imposed agreements are generally in effect for a period of 3 to 5 years and require many of the elements included in this compliance guidance.

[14] 42 CFR 422.501(b)(vi).

[15] The OIG appreciates that because Medicare+Choice organizations are subject to substantial regulations that contain extensive operational requirements as well as requirements regarding self-monitoring and monitoring or review of activities by external organizations, they may already be performing some of the activities discussed in this guidance. Each Medicare+Choice organization must determine the extent to which these activities need to be modified or supplemented to create an effective compliance program.

[16] Formal commitment may include a resolution by the board of directors, where applicable. A formal commitment *does* include the allocation of adequate resources to ensure that each of the elements is addressed.

applicable elements listed below. A good faith and meaningful commitment on the part of the Medicare+Choice organization's administration, especially the governing body and the chief executive officer (CEO), will substantially contribute to the program's successful implementation. It is incumbent upon an organization's officers and managers to provide ethical leadership to the organization and to assure adequate systems and resources are in place to facilitate and promote ethical and legal conduct. Employees, managers and the Government will focus on the words and actions (including decisions made on resources devoted to compliance) of an organization's leadership as a measure of the organization's commitment to compliance.

Under Medicare+Choice, an organization may, by written contract, delegate any activity required under or governed by the Medicare+Choice standards to another entity. However, an organization entering into a Medicare contract remains entirely accountable to HCFA for the performance of any delegated function.[17] It is the sole responsibility of the organization to ensure that the function is performed in accordance with applicable standards. While the activity may be delegated, the oversight responsibility remains with the Medicare+Choice organization. Each Medicare+Choice organization should keep these requirements and responsibilities in mind as it develops its compliance program.

These elements are based on the seven steps of the Federal Sentencing Guidelines.[18] As required by the HCFA regulations, every Medicare+Choice organization must implement all of the recommended elements and expand upon them, as appropriate. At a minimum, comprehensive compliance programs should include the following seven elements:

(1) The development and distribution of written standards of conduct, as well as written policies and procedures, that promote the Medicare+Choice organization's commitment to compliance and that address specific areas of potential fraud (*e.g.*, the marketing process and utilization);

(2) The designation of a chief compliance officer and other appropriate bodies, *e.g.*, a corporate compliance committee, charged with the responsibility and authority of operating and monitoring the compliance program and who report directly to the CEO and the governing body;

(3) The development and implementation of regular, effective education and training programs for all affected employees;

(4) The development of effective lines of communication between the compliance officer and all employees, including a process, such as a hotline, to receive complaints (and the adoption of procedures to protect the anonymity of complainants and to protect callers from retaliation);

(5) The use of audits or other risk evaluation techniques to monitor compliance and assist in the reduction of identified problem areas;

(6) The development of disciplinary mechanisms to consistently enforce standards and the development of policies addressing dealings with sanctioned and other specified individuals; and

(7) The development of policies to respond to detected offenses, to initiate corrective action to prevent similar offenses, and to report to Government authorities when appropriate.

A. Written Policies and Procedures

Every compliance program should require the development and distribution of written compliance policies, standards and practices that identify specific areas of risk and vulnerability to the Medicare+Choice organization. These policies should be developed by the appropriate operational officials within the Medicare+Choice organization, with appropriate review and oversight by the compliance officer and compliance committee. The OIG recommends that these policies be made available to all individuals who are affected by the particular risk or policy area at issue. Such individuals would include, for example, Medicare+Choice employees whose duties touch upon a particular risk or policy area, as well as agents and independent contractors with whom the organization has contracted to perform delegated activities, which touch upon a particular risk or policy area.[19] The OIG also recommends that Medicare+Choice organizations provide, upon request, all contractors with a summary of the standards of conduct and the number of the hotline. The distribution of these materials could be accomplished via hard copy or via electronic means.

1. Standards of Conduct

Medicare+Choice organizations should develop standards of conduct for all affected employees that include a clearly delineated commitment to compliance by the organization's senior management and its divisions. To help communicate a strong and explicit organizational commitment to compliance goals and standards, the Medicare+Choice organization's governing body, CEO, chief operating officer (COO), general counsel, chief financial officer (CFO) and other senior officials should be directly involved in the development of standards of conduct.

The standards should function in the same fashion as a constitution, *i.e.*, as a foundational document that details the fundamental principles, values and framework for action within an organization, as well as the organization's mission and goals. The standards should also articulate the Medicare+Choice organization's commitment to comply with all Federal and State laws and regulations, with an emphasis on preventing fraud and abuse, and include the ramifications of failure to comply with these standards. The standards should not only address compliance with statutes and regulations, but should also set forth broad principles that guide employees in conducting business professionally and properly. In short, the standards should promote integrity, support objectivity and foster trust. Furthermore, a Medicare+Choice organization's standards of conduct should reflect a commitment to high quality health care delivery, as evidenced by its conduct of on-going performance assessment, improved outcomes of care and respect for the rights of Medicare+Choice enrollees.

2. Written Policies for Risk Areas

As part of its commitment to compliance, Medicare+Choice organizations should establish a comprehensive set of written policies addressing all applicable statutes, rules and program instructions that apply to each function or department of that Medicare+Choice organization.[20] The

[17] 42 CFR 422.502(i).

[18] *See* United States Sentencing Commission Guidelines, *Guidelines Manual*, 8A1.2, comment. (n.3(k)). The Federal Sentencing Guidelines are detailed policies and practices for the Federal criminal justice system that prescribe appropriate sanctions for offenders convicted of Federal crimes.

[19] When determining to whom to distribute various policies, the Medicare+Choice organizations should keep in mind that, according to the Federal Sentencing Guidelines, an organization must have established compliance standards to be followed by its employees and other agents in order to receive sentencing credit. The Guidelines define ''agent'' as ''any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.'' See United States Sentencing Commission Guidelines, *Guidelines Manual*, 8A1.2, Application Note 3(d).

[20] This includes, but is not limited to, the Medicare+Choice provisions and the fraud and

policies should address specific areas of concern, such as marketing practices and data collection and submission processes. In contrast to the standards of conduct, which are designed to be a clear and concise collection of fundamental standards, the written policies should articulate specific procedures personnel should follow when performing their duties.[21]

The regulations and operational policies issued by HCFA that implement the Medicare+Choice program are very comprehensive and, as required by HCFA, serve as the basis for the policies and procedures of a Medicare+Choice organization.[22] The legal, policy and contractual requirements that organizations must meet and perform as a Medicare+Choice organization are articulated in documentation promulgated by HCFA and other Federal agencies and should be considered de facto risk areas. Included among these risk areas are: (1) The election process; (2) benefits and beneficiary protections; (3) quality assessment and performance improvement; (4) cost sharing; (5) solvency, licensure and other State regulatory issues; (6) claims processing; and (7) appeals and grievance procedures.

To determine the additional policies and procedures that are needed for a given Medicare+Choice organization (and which policies may need particular attention), the OIG recommends that Medicare+Choice organizations conduct a comprehensive self-administered risk analysis or contract for an independent risk analysis by experienced health care consulting professionals. This risk analysis could include surveys and statistical analysis specifically tailored to the organization's beneficiary population, provider pool and organizational structure and should identify and rank the various compliance and business risks the company may experience in its daily operations.[23] A Medicare+Choice organization's prior history of noncompliance with applicable statutes, regulations and Federal health care program requirements, or the failure to report such non-compliance, may indicate additional types of risk areas where the organization may be vulnerable and may require necessary policy measures to prevent avoidable recurrence.[24]

The fact that Medicare+Choice organizations may be both providers and insurers of health care increases the number and type of risk areas to which a Medicare+Choice organization must be attuned, as well as the type of auditing and monitoring procedures that must be implemented, in the development of its compliance efforts. For example, there are a variety of substantially different operational areas within the structure of a Medicare+Choice organization such as marketing, health services delivery and finances that could require different types of policies.

Given the detailed nature of the HCFA rules and regulations, we have not attempted in this document to identify each and every policy that should be established by a Medicare+Choice organization. Rather, based on a review of OIG audits, investigations and evaluations, we have identified the following areas of particular concern to OIG that the Medicare+Choice organization should include in its written policies and procedures:[25]

- Marketing materials and personnel;
- Selective marketing and enrollment;
- Disenrollment;
- Underutilization and quality of care;
- Data collection and submission processes;
- Anti-kickback statute and other inducements; and
- Emergency services.

The following sections provide specific guidance regarding the risk areas identified above.

a. Marketing Materials and Personnel

While each Medicare+Choice organization must comply with all of HCFA's detailed requirements relating to marketing their plans,[26] OIG is particularly concerned that organizations have policies regarding: (1) The completeness and accuracy of the marketing materials; and (2) marketing personnel.

Accurate and useful information is crucial to the success of the Medicare+Choice program. The OIG is concerned that Medicare+Choice organizations correctly and completely describe plan information in marketing materials or other materials distributed to individuals prior to and following enrollment. Medicare+Choice organizations that misrepresent or falsify information submitted to HCFA, individuals or entities are subject to civil money penalties (CMPs) or other intermediate sanctions.[27]

The submission of inaccurate or misleading information is of particular concern to OIG. Medicare+Choice organizations should be aware that the fact that materials have been approved by HCFA does not absolve them from potential liability for misrepresenting or falsifying information.[28]

HCFA considers marketing materials to include any informational materials targeted to Medicare beneficiaries. Marketing materials go beyond the public's general conception of marketing materials and include general

abuse provisions of the Balanced Budget Act of 1997, Pub. L. 105–33; the Civil False Claims Act, 31 U.S.C. 3729–3733; the criminal false claims statutes, 18 U.S.C. 287, 1001; the fraud and abuse provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub.L. 104–191; and the civil money penalties in the Social Security Act, 42 U.S.C. 1320a–7a and 42 U.S.C. 1395w–27(g). *See also* 42 CFR 422.1–422.312.

[21] The Medicare+Choice organization should document its efforts to formulate its policies to comply with applicable statutes, regulations and program requirements. For example, where a Medicare+Choice organization requests advice from HCFA, the Medicare+Choice organization should document and retain a record of the request and any written or oral response. This step is extremely important if the Medicare+Choice organization intends to rely on that response to guide it in future decisions, actions or appeals. In addition, the Medicare+Choice organization should maintain records relevant to the issue of whether its reliance was ''reasonable,'' and whether it exercised due diligence in developing procedures to implement the advice.

[22] Medicare+Choice organizations should regularly access the HCFA managed care website at http://www.hcfa.gov/medicare/mgdcar1.htm for updates on regulations and operational policies. Operational Policy Letters can be located on HCFA's web site at http://www.hcfa.gov/medicare/mgd-ops.htm.

[23] Medicare+Choice organizations may also want to consult the OIG's Work Plan when conducting the risk assessment. The OIG Work Plan details the various projects the OIG currently intends to address in the fiscal year. It should be noted that the priorities in the Work Plan are subject to modification and revision as the year progresses and the Work Plan does not represent a complete or final list of areas of concern to the OIG. The Work Plan is currently available on the Internet at http://www.hhs.gov/oig/.

[24] ''Recurrence of misconduct similar to that which an organization has previously committed casts doubt on whether it took all reasonable steps to prevent such misconduct'' and is a significant factor in the assessment of whether a compliance program is effective. *See* United States Sentencing Commission Guidelines, *Guidelines Manual*, 8A1.2, Application Note 3(7)(ii).

[25] Although many of these areas apply specifically to Medicare+Choice organizations, many of the areas identified below have analogous issues in non-Medicare organizations. Medicare+Choice organizations that provide private managed care products should consider establishing additional policies and procedures for risk areas that apply specifically to those areas. Although the policies may be integrated, they should identify, as appropriate, where deviations may be necessary to meet Medicare+Choice requirements or State licensure requirements.

[26] Medicare+Choice organizations should ensure that they conform to fair marketing standards as set forth in the statute, the Medicare Managed Care National Marketing Guide (Marketing Guide) and all HCFA Operational Policy Letters affecting marketing matters.

[27] 42 U.S.C. 1395w–27(g).

[28] Medicare+Choice organizations may not distribute marketing materials or election forms unless they have submitted them to HCFA for review 45 days prior to distribution and HCFA has not disapproved their distribution (42 CFR 422.80).

circulation brochures, leaflets, newspapers, magazines, television, radio, billboards, yellow pages, the internet, slides and charts, and leaflets for distribution by providers. Such materials also include membership communication materials such as membership rules, subscriber agreements, or confirmation of enrollment.[29] Accordingly, Medicare+Choice organizations should carefully scrutinize all of these materials for completeness, accuracy and compliance with HCFA rules, regulations and policy letters.

In verifying that marketing materials meet all HCFA requirements, Medicare+Choice organizations should ensure that the appropriate materials contain an adequate description of enrollee rights, procedures for accessing basic benefits and services, and a clear explanation of the appeal and grievance process.[30] Of particular concern to HCFA and OIG is that the concept of ''lock-in'' is clearly explained in all marketing material. Many Medicare beneficiaries are unfamiliar with the notion that managed care may limit their health care provider choices. Describing the process of selecting a primary care physician and the limitations that this places on a Medicare+Choice enrollee's choice of provider will reduce the unmet expectations of Medicare beneficiaries.

Another important concept to include in the marketing materials is that the beneficiary may be terminated from enrollment in the plan due to the decision of the Medicare+Choice organization not to renew its contract with HCFA, or due to HCFA's refusal to renew the contract.[31] This termination can affect the enrollee's eligibility for supplemental insurance and other benefits.

Second, in light of the critical role that marketing personnel play in representing the plan to Medicare enrollees, the Medicare+Choice organization must take all appropriate steps to ensure that marketing personnel are presenting clear, complete and accurate information to potential enrollees. To that end, the OIG encourages Medicare+Choice organizations to employ their own marketing personnel, as opposed to contracting these responsibilities to outside entities.[32] This provides the Medicare+Choice organization the necessary control to ensure that these individuals meet all HCFA guidelines. Similarly, it safeguards Medicare beneficiaries from practices that could greatly affect the access to health care to which they are entitled and their ability to acquire accurate and complete information regarding their health care options.

Medicare+Choice organizations should also be aware that the OIG and HCFA strongly discourage the use of physicians as marketing agents for several reasons: (1) When a physician acts outside his or her traditional role as care provider, the physician's patients may be confused as to when the physician is acting as an agent of the plan, and when the physician is acting in his or her role as a fiduciary to act in the best interests of the patient; (2) a physician's knowledge of a patient's health status increases the potential for discriminating in favor of Medicare beneficiaries with positive health status when acting as a marketing agent; (3) physicians may not be fully aware of membership plan benefits and costs; and (4) physicians may not be the best source of membership information for their patients.[33] Therefore, the organization should develop policies to ensure that any provider promotional activities are conducted in accordance with HCFA guidelines (which allow, *e.g.*, the distribution of health plan brochures (exclusive of applications) at a health fair or in their own offices).[34]

b. Selective marketing and Enrollment

The OIG is very concerned about the practice known as ''cherry-picking,'' or selective marketing,[35] in which Medicare+Choice organizations discriminate in the marketing and enrollment process based upon an enrollee's degree of risk for costly or prolonged treatment.[36] Except for individuals who have been medically determined to have end-stage renal disease, a Medicare+Choice organization may not deny, limit or condition the coverage or furnishing of benefits to individuals eligible to enroll in a Medicare+Choice plan offered by the organization on the basis of any factor that is related to health status, including, but not limited to, the following: (1) Medical condition (including mental illness); (2) claims experience; (3) receipt of health care; (4) medical history; (5) genetic information; (6) evidence of insurability; and (7) disability.[37] Engaging in practices that would reasonably be expected to have the effect of denying or discouraging enrollment by eligible individuals whose medical condition or history indicates the need for substantial future medical services subjects the Medicare+Choice organization to a CMP or other sanction, such as suspension of enrollment or suspension of payment.[38]

Certain types of practices clearly fall into the category of cherry-picking and Medicare+Choice organizations should implement policies to prohibit and prevent such practices. For example, organizations should generally prohibit employees from conducting medical screening, *i.e.*, asking the beneficiary medical questions prior to enrollment.[39] In a 1996 survey, the OIG found that such screening for health status at application was reported by 18 percent of beneficiaries. While this represented a reduction from the 1993 level of 43 percent, it still represents a potentially serious problem.[40]

Another way in which Medicare+Choice organizations may inappropriately target healthier beneficiaries is by primarily marketing their plans in places where healthy enrollees are more likely to be present, such as at health and exercise clubs, or in areas that are difficult to access for people with disabilities (*e.g.*, upper floors of buildings that do not have elevators).[41] Similarly, organizations may inappropriately provide inducements to potential enrollees in a way that would encourage younger, healthier beneficiaries to enroll in the plan. For example, the offering of free gym memberships or kayaking or other sporting lessons would appeal to a healthy class of enrollees and discriminate against those who would not be interested in such activities.[42] If

[29] 42 CFR 422.80(b).

[30] 42 CFR 422.80(c).

[31] 42 CFR 422.80(c)(3).

[32] It should be noted that Medicare+Choice organizations have ultimate responsibility for the acts and omissions of its marketing agents (42 CFR 422.502(i)).

[33] Marketing Guide, Chapter IV.

[34] Id.

[35] OIG is also concerned about a similar problem, known as ''gerrymandering,'' which is an attempt to eliminate certain high dollar risk areas from the Medicare+Choice organization's service area. Medicare+Choice organizations should have policies in place to avoid such practices.

[36] Although the Medicare+Choice program has attempted to alleviate many of the selective marketing practices through the use of risk adjustment, the phase-in period for risk-adjustment virtually assures that this will remain a troubling issue through 2004.

[37] 42 U.S.C. 1395w–22(b)(1); 42 CFR 422.110.

[38] 42 U.S.C. 1395w–27(g)(1)(D); 42 CFR 422.750 through 422.760.

[39] Pursuant to 42 CFR 422.50(a)(2), it would be appropriate to determine whether a potential enrollee has end-stage renal disease.

[40] ''Beneficiary Perspectives of Medicare Risk HMOs 1996.'' (OEI–06–95–00430)(March 1998).

[41] In fact, Medicare+Choice organizations are required to allocate part of their resources to marketing to the Medicare population with disabilities (42 CFR 422.80(e)(2)(i)).

[42] The statute prohibits the provision of cash or other monetary rebates as an inducement for enrollment in the plan. *See* 42 U.S.C. 1395w–21(h)(4)(A). However, HCFA allows

a Medicare+Choice organization intends to offer such items as a Medicare+Choice benefit, the item must meet the definitional requirements of a bona fide benefit. The item must be: (1) Related to health care; and (2) costed out in the Medicare+Choice organization's Adjusted Community Rate. Any such items that do not meet these requirements are not valid Medicare+Choice benefits and must be considered ''value added services'' (VAS) subject to all the limitations associated with VAS.

Other examples of cherry-picking would be: (1) Attempts to give enrollment priority to newly eligible Medicare beneficiaries (who are theoretically younger and healthier), other than as set forth in the regulations; [43] (2) the tracking of costs incurred by enrollees who were enrolled in different settings (*e.g.*, at the health fair, or at a health club), which could be used to target healthier enrollees in the future; or (3) re-enrollment campaigns targeting past plan subscribers who had low medical costs. There are many other subtle ways in which a Medicare+Choice organization may try to enroll healthy patient populations in a discriminatory manner (*i.e.*, not making similar attempts to enroll less healthy beneficiaries) and the organization should implement policies actively to prevent such practices.

c. Disenrollment

In general, Medicare+Choice organizations are prohibited from disenrolling, or requesting or encouraging (either by action or inaction) an individual to disenroll from any plan it offers.[44] If a Medicare+Choice organization acts to expel or refuses to reenroll an individual in violation of the statute, a civil money penalty or other sanction can be imposed on the organization.[45] The OIG is particularly concerned about disenrollment in light of its recent review, which revealed that there was a problem with disenrollment of beneficiaries just prior to receiving expensive inpatient services.[46]

In this review, OIG found that Medicare paid for inpatient hospital services amounting to $224 million in fee-for-service (FFS) payments within 3 months of beneficiaries' disenrollment from six risk plans during 1991 through 1996. Had these beneficiaries not disenrolled, Medicare would have paid the HMOs $20 million in monthly capitation payments. Had the beneficiaries remained in the HMOs, Medicare would have saved $204 million in expenditures. Included in the Medicare FFS payments were $41 million for beneficiaries who disenrolled, had FFS procedures performed, and then reenrolled into another or the same managed care plan.

While this study did not identify the reasons for the disenrollment as part of this review, one partial explanation of the review could be that some managed care plans or their medical personnel may be encouraging sicker beneficiaries to disenroll as a way to avert their own costs at a high cost to the Medicare system.

Each Medicare+Choice organization must implement policies to ensure that inappropriate disenrollment does not occur.[47] Such policies should include clarification of when it is appropriate for medical personnel to discuss the concept of disenrollment. Generally speaking, OIG believes it would be inappropriate for medical personnel *to initiate discussion* of disenrollment or *to promote disenrollment* (when the topic is initiated by the enrollee), except in the rare circumstance where the Medicare+Choice organization cannot or does not provide the covered medical items or services needed by the patient.

d. Underutilization and Quality of Care

Medicare+Choice organizations must ensure that all covered services are available and accessible to all enrollees.[48] The OIG views the inappropriate withholding or delay of services, known as underutilization or ''stinting,'' as a serious issue.[49] Examples of practices that can lead to underutilization and poor quality include the failure to employ or contract with sufficient institutional and individual providers to accommodate all enrollees, the failure to provide geographically reachable services to enrollees, the delay in approving or failure to approve referrals for covered services, the establishment of utilization review procedures that are so burdensome that an enrollee could not reasonably be expected to fulfill the requirements and the categorical denial of payment of claims.[50]

There are a wide variety of policies that a Medicare+Choice organization should implement to be sure it is providing all medically necessary services to its enrollees. The regulations and guidelines that implement the Medicare+Choice program contain numerous provisions that deal with this issue. While we have not attempted to develop a comprehensive list in this document, we would like to highlight three types of policies that Medicare+Choice organizations should develop that may help address underutilization and quality of care.

First, Medicare+Choice organizations should have policies that prohibit interference with health care professionals' advice to enrollees. Also known as the ''gag rule,'' this prohibition extends to advice regarding the patient's health status, medical care, and treatment options, the risks, benefits and consequences of treatment or non-treatment, or the opportunity for the individual to refuse treatment and to express preferences about future treatment options.[51] Failure to comply with this requirement can lead to sanctions.[52]

Second, Medicare+Choice organizations should be sure, to they extent that they utilize physician incentive plans (PIPs) in their payment arrangements with individual physicians or physician groups, that they comply with all applicable regulations and that such payment arrangements are fully disclosed to HCFA as required by regulation. The PIPs raise utilization concerns because they are defined as ''any compensation

Medicare+Choice organizations to give Medicare beneficiaries nominal value gifts, provided that the plan offers these gifts whether or not the beneficiary enrolls in the plan. HCFA defines nominal value as an item having little or no resale value (generally, less than $10), which cannot be readily converted into cash. *See* Marketing Guide, Chapter II. The use of inducements is also discussed in Section II.A.2.f.—Anti-kickback and Other Inducements.

[43] 42 CFR 422.66(d).

[44] Medicare+Choice organizations are entitled to disenroll individuals under certain circumstances, *e.g.*, failure to pay premiums or engagement in disruptive behavior. 42 CFR 422.74.

[45] 42 U.S.C. 1395w–27(g)(1)(C).

[46] Review of Inpatient Services Performed on Beneficiaries After Disenrolling from Medicare Managed Care.'' (A–07–98–01256) (May 1999).

[47] Such policies should be consistent with the provisions that prohibit Medicare+Choice organizations from restricting a health care professional from advising patients of the ''*health status* of the individual or *medical care or treatment for the individual's condition or disease*, regardless of whether benefits for such care or treatment are provided under the plan.'' *See* 42 U.S.C. 1852(j)(3)(emphasis added).

[48] 42 U.S.C. 1395w–22. To this end, Medicare+Choice organizations must comply with the standards contained in the Quality Improvement System for Managed Care (QISMC) for Organizations Contracting with Medicare or Medicaid.

[49] Medicare+Choice organizations can be subject to sanctions for failing substantially to provide medically necessary items and services that are required to be provided, if the failure has adversely affected (or has the substantial likelihood of adversely affecting) the individual. 42 U.S.C. 1395w–27(g)(1)(A).

[50] See QISMC Standards 2.1.2, 2.2.2 and 3.1.

[51] 42 U.S.C. 1395w–22(j)(3), 42 CFR 422.206; QISMC Standard 3.3.1.7.

[52] 42 U.S.C. 1395w–27(g)(1)(F); 42 CFR 422.750 through 422.760.

arrangement to pay a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided to any plan enrollees.'' [53] Any PIP operated by a Medicare+Choice organization must comply with the following requirements. First, it may make no payments to physicians (such as offerings of monetary value, including, but not limited to, stock options or waivers of debt [54]) to reduce or limit medically necessary services furnished to any particular enrollee. Second, if the PIP puts a physician or physician group at ''substantial financial risk'' [55] for referral services, the Medicare+Choice organization must: (1) survey current and previously enrolled members to assess access to, and satisfaction with, the quality of services; and (2) assure that there is adequate and appropriate stop-loss protection.[56] Finally, Medicare+Choice organizations must disclose to HCFA certain information regarding their PIPs. These disclosure requirements apply to direct contracting arrangements, as well as subcontracting arrangements.[57]

Finally, the OIG is aware of cases in which beneficiaries have received covered services from individuals that were not appropriately licensed. Given the serious quality of care implications of this type of practice, the OIG is particularly concerned that Medicare+Choice organizations have procedures for the selection of providers, including criteria for the credentialing of providers. This process should include an application, verification of information and a site visit, where applicable.[58] The information that must be verified includes that the individual has a valid license to practice, clinical privileges in good standing and appropriate educational qualifications.

e. Data Collection and Submission Processes

The regulations implementing the Medicare+Choice program contain numerous requirements relating to the data collection and submission process, ranging from a requirement for an effective system for receiving, controlling and processing election forms [59] to requirements for the timely submission of disenrollment notices.[60] These requirements cover the gamut of requirements with which a Medicare+Choice organization must comply and are too detailed to enumerate in this document. Medicare+Choice organizations should establish a policy that all required submissions to HCFA be accurate, timely and complete and that all appropriate reporting requirements are met.[61]

The OIG is particularly concerned that Medicare+Choice organizations submit accurate data when that information determines the amount of payment received from HCFA. The regulations require that when a Medicare+Choice organization requests payment under the contract, the CEO or CFO must certify the accuracy, completeness and truthfulness of relevant data, including enrollment data, encounter data and information provided as part of an adjusted community rate (ACR) proposal.[62] When a Medicare+Choice organization submits this type of data to HCFA, it is making a ''claim'' for capitation payment in the amount dictated by the data submitted, or in the case of the ACR submission, a ''claim'' to retain the portion of the capitation amount that is under the average payment rate, rather than providing additional benefits. When a Medicare+Choice organization is claiming payment (or the right to retain payment) based upon information submitted to HCFA, it must take responsibility for having taken reasonable steps to assure the accuracy of this information. The attestation forms developed by HCFA for this purpose require certification that the information submitted is true and accurate based on best knowledge, information and belief.

The requirement that the CEO or CFO certify as to the accuracy, completeness and truthfulness of data, based on best knowledge, information and belief, does not constitute an absolute guarantee of accuracy. Rather, it creates a duty on the Medicare+Choice organization to put in place an information collection and reporting system reasonably designed to yield accurate information. Further, the Medicare+Choice organization should exercise due diligence to ensure that these systems are working properly. The exact methods used by the Medicare+Choice organization to accomplish this can be determined by the organization, however, it should ordinarily conduct sample audits and spot checks of this system to verify whether it is yielding accurate information.

The knowing submission of false information to HCFA can lead to serious criminal or civil penalties.[63] Medicare+Choice organizations should implement policies so that the enrollment, encounter and ACR data submitted to HCFA are accurate, complete and truthful. While information from a variety of sources can affect this data, Medicare+Choice organizations should take note of two reports issued by the OIG that have identified concerns in two aspects of this data.

First, the OIG recommends that Medicare+Choice organizations have policies and procedures in place that ensure that the administrative component of the ACR is calculated accurately.[64] As part of this process, Medicare+Choice organizations should have clearly defined criteria for claiming reimbursement for their administrative costs. These costs should not include any costs that are directly associated with furnishing patient care. All such costs should be allocated to the applicable operating component. The OIG has articulated serious concerns about the methodology used by managed care organizations in computing their administrative rate on the ACR proposal.[65] For example, computing an administrative rate based on the use of a medical utilization factor could generate a payment that is almost three times what would be charged on the commercial side.

Second, the OIG recommends that Medicare+Choice organizations have adequate internal controls in place to ensure that the institutional status of

[53] 42 CFR 422.208.

[54] 42 U.S.C. 1395w–22(j)(4); 42 CFR 422.208.

[55] ''Substantial financial risk'' threshold is set at 25 percent of potential payments for covered services, regardless of the frequency of assessment (*i.e.*, collection) or distribution of payments. 42 CFR 422.208.

[56] 42 CFR 422.208(c).

[57] 42 CFR 422.210(a).

[58] 42 CFR 422.204.

[59] 42 CFR 422.60(e).

[60] 42 CFR 422.66(b)(3)(i).

[61] On a related topic, Medicare+Choice organizations should also be sure that their computer systems are Year 2000 (Y2K) compliant. An OIG report indicates that managed care organizations have made significant progress in this regard, with more than 80% indicating that they are Y2K compliant. ''Y2K Readiness of Managed Care Organizations.'' (OEI–05–98–0591)(October 1999).

[62] 42 CFR 422.502(l) and (m). *See also* Contract for Year 2000, Attachments A, B and C.

[63] Falsification of documentation in any application for any benefit or payment under a Federal health care program is a Federal offense punishable by not more than $25,000 or imprisonment for 5 years, or both. *See* 42 U.S.C. 1320a–7b. In addition, a CMP can be imposed for the misrepresentation or falsification of information submitted to HCFA under Medicare+Choice. See 42 U.S.C. 1395w–27(g)(1)(E).

[64] The administrative component of the ACR covers any management, financial or other costs that are incurred by or allocated to a business unit for the management or administration of the business unit as a whole.

[65] *See, e.g.,*''Administrative Costs Submitted by Risk-Based Health Maintenance Organizations on the Adjusted Community Rate Proposals are Highly Inflated.'' (A–14–97–00202) (July 1998).

beneficiaries is reported accurately.[66] A recent report issued by the OIG estimated that risk-based HMOs received Medicare overpayments of $22.2 million for beneficiaries incorrectly classified as institutionalized.[67] The incorrect classification was largely due to deficiencies in the HMOs internal controls in two areas: (1) Verification of beneficiaries' institutional status; and (2) reporting of institutional beneficiaries to HCFA. The results were based on audits of eight randomly selected HMOs.

f. Anti-Kickback Statute and Other Inducements

The anti-kickback statute provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit or receive remuneration to induce the referral of business reimbursable under a Federal health care program (including Medicare and Medicaid).[68] The OIG has promulgated safe harbor regulations that define practices that are not subject to the anti-kickback statute because such practices would be unlikely to result in fraud or abuse.[69]

The anti-kickback statute potentially applies to many managed care arrangements because a common strategy of these arrangements is to offer physicians, hospitals and other providers increased patient volume in return for substantial fee discounts. Because discounts to managed care organizations can constitute ''remuneration'' within the meaning of the anti-kickback statute, a number of health care providers have expressed concern that many relatively innocuous, or even beneficial, commercial managed care arrangements implicate the statute and may subject them to criminal prosecution and administrative sanctions.

The OIG recognizes that when managed care organizations are paid a capitated amount for all of the services they provide regardless of the dates, frequency or type of services, there is no incentive for them to overutilize. In any event, even if overutilization occurs, the Federal health care programs are not at risk for these increased costs. Accordingly, OIG will be issuing a safe harbor from the anti-kickback statute that will provide protection for certain financial arrangements between managed care organizations (including Medicare+Choice organizations) and individuals or entities with whom they contract for the provision of health care items or services, where a Federal health care program pays such organizations on a capitated basis.[70]

In general, the safe harbor protects payments between capitated managed care organizations (including Medicare+Choice organizations offering coordinated care plans) and individuals or entities with which it has direct contracts to provide or arrange for the provision of items or services.[71] While this is a broad exception, there are three important limitations.

The first significant limitation is that there is no protection if the financial arrangements under the managed care agreement are implicitly or explicitly part of a broader agreement to steer fee-for-service Federal health care program business to the entity giving the discount to induce the referral of managed care business. Specifically, we understand that most managed care organizations have multiple relationships with their contractors and subcontractors for the provision of services for various product lines, including non-federal HMOs, preferred provider organizations (PPOs) and point of service networks. Consequently, although neither a managed care organization receiving a capitated payment from a Federal health care program nor its contractors or subcontractors has an incentive to overutilize items or services or pass additional costs back to the Federal health care programs under the capitated arrangement, we are concerned that a managed care organization or contractor may offer (or be offered) a reduced rate for its items or services in the Federal capitated arrangement in order to have the opportunity to participate in other product lines that do not have stringent payment or utilization constraints. This practice is a form of a practice known as ''swapping;'' in the case of managed care arrangements, low capitation rates could be traded for access to additional fee-for-service lines of business. We are concerned when these discounts are in exchange for access to fee-for-service lines of business, where there is an incentive to overutilize services provided to Federal health care program beneficiaries.

For example, we would have concerns where an HMO with a Medicare risk contract under Medicare Part C also has an employer-sponsored PPO that includes retirees and requires participating providers to accept a low capitation rate for the Medicare HMO risk patients in exchange for access to the Medicare fee-for-service patients in the PPO. Although in such circumstances the cost to the Medicare program for the risk-based HMO beneficiaries will not be increased, there may be increased expenditures for Medicare beneficiaries in the PPO arrangement, because the providers may have an incentive to increase services to the Medicare enrollees in the PPO to offset the discounted rates to the Medicare HMO. Accordingly, such arrangements could violate the anti-kickback statute and should not be protected.

A second limitation on the regulatory safe harbor protection is that it only applies to remuneration for health care items and services and those items or services reasonably related to the provision of health care items and services. It does not cover marketing services or any services provided prior to a beneficiary's enrollment in a health plan.

Finally, the broad protection is limited to risk-based managed care plans that do not claim any payment from a Federal health care program other than the capitated amount set forth in the managed care organization's agreement with the Federal health care

[66] This will remain a concern until risk adjustment is fully implemented.

[67] ''Review of Medicare Managed Care Payments for Beneficiaries with Institutional Status.'' (A–05–98–00046)(April 1999).

[68] 42 U.S.C. 1320a–7b(b). If it is determined that a party has violated the anti-kickback statute, the individual or entity can be excluded from participation in the Medicare and other Federal health care programs (as defined in 42 U.S.C. 1320a–7b(f)). 42 U.S.C. 1320a–7(b)(7). In addition, there is an administrative CMP provision for violating the anti-kickback statute (42 U.S.C. 1320a–7a(a)(7)).

[69] 42 CFR 1001.952. The safe harbors set forth specific conditions that, if met, assure entities involved of not being prosecuted or sanctioned for the arrangement qualifying for the safe harbor. However, safe harbor protection is afforded only to those arrangements that precisely meet all of the conditions set forth in the safe harbor. The failure of an arrangement to fit inside a safe harbor or statutory exception does not mean that the arrangement is illegal. It is incorrect to assume that arrangements outside of a safe harbor are suspect due to that fact alone. That an arrangement does not meet a safe harbor only means that the arrangement does not have guaranteed protection and must be evaluated on a case-by-case basis.

[70] This safe harbor was developed in accordance with section 216 of HIPAA and section 14 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Pub. L. 100–93) through a negotiated rulemaking process that began in the spring of 1997. For a more detailed description of the negotiated rulemaking, *see* the Committee Statement of the Negotiated Rulemaking Committee on the Shared Risk Exception (January 22, 1998), which can be found on the Internet at http://www.hhs.gov/oig/.

[71] In addition, arrangements between direct contractors and all subcontractors or successive tiers of subcontractors are protected, as long as the arrangement is for the provision of health care items or services that are covered by the arrangement between the direct contractor and the managed care organization and the arrangement meets the requirements applicable to arrangements between the direct contractor and the managed care organization.

program. Where the managed care plan, its contractors or its subcontractors are permitted to seek additional payments from any of the Federal health care programs, the regulatory safe harbor protection is significantly more limited. For example, protection is not extended to arrangements with subcontractors when the contract under section 1876 of the Social Security Act is cost-based or where the prime contract is protected solely because the contracting entity is a Federally-qualified HMO.[72] In the first instance, reimbursement from the Federal health care program is based on costs, and in the latter case, services for Medicare enrollees are reimbursed on a fee-for-services basis. In both instances, reimbursement will increase with utilization, thus providing the same incentive to overutilize as any fee-for-service payment methodology.

While the new safe harbor will provide protection from the anti-kickback statute for most arrangements between Medicare+Choice organizations and their contractors, Medicare+Choice organizations should also have policies in place that ensure that any incentives that the Medicare+Choice organization offers directly or indirectly to beneficiaries and potential beneficiaries do not run afoul of the anti-kickback statute or the new civil money penalty relating to incentives to beneficiaries.[73] The CMP was enacted in section 231(h) of HIPAA (42 U.S.C. 1320a–7a(a)(5)) and imposes sanctions against individuals or entities that offer remuneration to a program beneficiary that they know, or should know, will influence the beneficiary's decision to order or receive items or services from a particular provider, practitioner or supplier reimbursable by Medicare or the State health care programs.

Pending the publication of the final rule implementing this CMP, we can provide the following guidance. It is our view that organizations that provide incentives to Federal health care program beneficiaries to enroll in a *plan* are not offering remuneration to induce the enrollees to use a *particular provider, practitioner or supplier.* Accordingly, we anticipate that organizations that provide incentives to enroll in a plan will not be subject to sanctions under this provision. However, incentives provided by organizations to induce a beneficiary to use a particular provider, practitioner or supplier once the beneficiary has enrolled in a plan are within the purview of this CMP and are prohibited if they do not meet an exception. For example, incentives given to beneficiaries by a particular physician group within the physician panel of a Medicare+Choice organization to encourage the beneficiary to use that physician group over another physician in the panel would be prohibited.

g. Emergency Services

The OIG and HCFA believe that there may be special concerns regarding the provision of emergency services to enrollees of Medicare+Choice plans. The anti-dumping statute[74] imposes specific obligations on Medicare-participating hospitals that offer emergency services to individuals presenting themselves at the hospital seeking possible emergency treatment. While the obligations under the anti-dumping statute prohibit a hospital from inquiring into the patient's method of payment or insurance status when it results in the delay of a medical screening examination and/or stabilizing treatment, it has come to our attention that some hospitals routinely seek prior authorization from the patient's primary care physician or from the managed care plan when a managed care patient requests emergency services. Investigations of allegations of the anti-dumping statute across the country have persuaded the OIG that managed care patients may be at risk of being discharged or transferred without receiving a medical screening examination, largely because of the problems inherent in seeking ''prior authorization.''

To ensure appropriate access to emergency services for Medicare+Choice enrollees, Medicare+Choice organizations should comply with several key provisions. First, Medicare+Choice organizations are prohibited from requiring prior authorization for emergency services and must provide coverage for such services without regard to the emergency care provider's contractual relationship with the Medicare+Choice organization.[75] Second, payment must be provided for emergency services based on a ''prudent layperson standard,'' which means that the need for emergency services should be determined from a reasonable patient's perspective at the time of presentation of the symptoms[76] Finally, Medicare+Choice organizations must comply with all guidelines relating to the efficient and timely coordination of appropriate maintenance and post-stabilization of an enrollee after the enrollee has been stabilized under the anti-dumping statute.[77]

Medicare+Choice organizations should be particularly careful of the requirements of the anti-dumping statute in the event that they participate in the so-called ''dual staffing'' of emergency departments. Dual staffing occurs when hospitals enter into arrangements allowing a managed care organization to station its own physicians in the hospital's emergency department for the purpose of screening and treating managed care enrollees. Implementation of dual staffing raises some concerns under the anti-dumping statute, particularly where different procedures and protocols have been established for each staff.

In addition, Medicare+Choice organizations should be particularly careful in operating ''urgent care'' services and in instructing enrollees to contact such services when enrollees need care. The organizations should ensure that such operations and instructions do not delay or otherwise compromise enrollees' access to services that should be provided in a hospital emergency room.

3. Retention of Records and Information Systems

Medicare+Choice organizations' compliance programs should provide for the implementation of a records retention system. This system should establish policies and procedures regarding the creation, distribution, retention, storage, retrieval and destruction of documents. The three types of documents developed under this system should include: (1) All records and documentation required by either Federal or State law and the program requirements of Federal and State health plans;[78] (2) records listing the persons responsible for implementing each part of the compliance plan; and (3) all records necessary to protect the integrity of the Medicare+Choice organization's compliance process and confirm the effectiveness of the program. The documentation necessary to satisfy the third category includes, but is not

[72] The arrangements may qualify for other safe harbors, such as the discount or personal services safe harbors.

[73] Our concerns regarding the use of inducements in a manner that leads to enrollment of only healthy beneficiaries, such as offering memberships to exercise clubs for purposes of patient screening, is discussed above in Section II.A.2.b.—Selective Marketing and Enrollment.

[74] 42 U.S.C. 1395dd.

[75] 42 U.S.C. 1395w–22(d)(1)(E). Medicare+Choice organizations should not offer, or enter into, contracts with hospitals that are inconsistent with the anti-dumping statute.

[76] 42 U.S.C. 1395w–22(d)(3).

[77] 42 U.S.C. 1395w–22(d)(2).

[78] These documents should be maintained for the periods required by the HCFA Medicare+Choice regulations.

limited to the following: evidence of adequate employee training; reports from the Medicare+Choice organization's hotline; results of any investigation conducted as a consequence of a hotline call; modifications to the compliance program; all written notifications to providers regarding compliance activities; [79] and the results of the Medicare+Choice organization's auditing and monitoring efforts.

In light of the increasing reliance on electronic data interchange by the health care industry, Medicare+Choice organizations should take particular care in establishing procedures for maintaining the integrity of its data collection systems. This should include procedures for regularly backing-up data (either by diskette, restricted system or tape) collected in connection with all aspects of the Medicare+Choice program requirements.

In addition, all Medicare+Choice organizations should develop and implement policies and procedures to ensure the confidentiality and privacy of financial, medical, personnel and other sensitive information in their possession.[80] These policies should address both electronic and hard copy documents.

4. Compliance as an Element of a Performance Plan

Compliance programs should require that the promotion of, and adherence to, the elements of the compliance program be a factor in evaluating the performance of all relevant employees. Such employees should be periodically trained in new compliance policies and procedures.

Policies should require that managers:

- Discuss with all relevant employees the compliance policies and legal requirements applicable to their function;
- inform all relevant personnel that strict compliance with these policies and requirements is a condition of employment; and
- Disclose to all relevant personnel that the Medicare+Choice organization will take disciplinary action up to and including termination for violation of these policies or requirements.

In addition to making performance of these duties an element in evaluations, the compliance officer or company management should include a policy that managers and supervisors will be sanctioned for failure to instruct adequately their subordinates or for failure to detect noncompliance with applicable policies and legal requirements, where reasonable diligence on the part of the manager or supervisor should have led to the discovery of any problems or violations.

B. Designation of a Compliance Officer and a Compliance Committee

1. Compliance Officer

Every Medicare+Choice organization should designate a compliance officer to serve as the focal point for compliance activities. This responsibility may be the individual's sole duty or added to other management responsibilities, depending upon the size and resources of the Medicare+Choice organization and the complexity of the task.

Designating a compliance officer with the appropriate authority is critical to the success of the program, necessitating the appointment of a high-level official in the Medicare+Choice organization with direct access to the company's governing body, the CEO and all other senior management and legal counsel.[81] While it is important that the compliance officer have appropriate authority, we are not suggesting that the compliance officer should have operational responsibility for the various aspects of the Medicare+Choice program. For example, the compliance officer should have full authority to stop the submission of data that he or she believes is problematic until such time as the issue in question has been resolved. In addition, the compliance officer should be copied on the results of all internal audit reports and work closely with key managers to identify aberrant trends in the areas that require certification. The compliance officer must have the authority to review all documents and other information that are relevant to compliance activities, including, but not limited to, enrollee records (where appropriate) and records concerning the marketing efforts of the organization and the Medicare+Choice organization arrangements with other parties, including employees, professionals on staff, relevant independent contractors, suppliers, agents and physicians. This policy enables the compliance officer to review contracts and obligations (seeking the advice of legal counsel, where appropriate) that may contain referral and payment provisions that could violate statutory or regulatory requirements.

Coordination and communication are the key functions of the compliance officer with regard to planning, implementing and monitoring the compliance program. With this in mind, the OIG recommends that the Medicare+Choice organization's compliance officer closely coordinate compliance functions with providers' compliance officers.

The compliance officer should have sufficient funding and staff to fully perform his or her responsibilities. These duties should include:

- Overseeing and monitoring the implementation of the compliance program; [82]
- Reporting on a regular basis to the Medicare+Choice organization's governing body, CEO and compliance committee on the progress of implementation;
- Periodically revising the program in light of changes in the organization's needs and in the law and policies and procedures of Government and private payor health plans;
- Reviewing employees' certifications stating that they have received, read and understood the standards of conduct;
- Developing, coordinating and participating in a multifaceted educational and training program that focuses on the elements of the compliance program and seeks to ensure that all appropriate employees and management are knowledgeable of, and comply with, pertinent Federal and State standards;
- Coordinating personnel issues with the Medicare+Choice organization's human resources/personnel office (or its equivalent) to ensure that providers and employees do not appear in the List of Excluded Individuals/Entities and the General Services Administration (GSA) list of debarred contractors; [83]
- Assisting the Medicare+Choice organization's management in coordinating internal compliance review and monitoring activities, including annual or periodic reviews of departments;
- Independently investigating and acting on matters related to compliance, including the flexibility to design and

[79] This should include notifications regarding: quality of care issues; confusing or inaccurate encounter data; and termination of the contract.

[80] 42 U.S.C. 1395w–22(h); 42 CFR 422.118.

[81] The OIG believes that it is not advisable for the compliance function to be subordinate to the Medicare+Choice organization's general counsel, comptroller or similar company financial officer. Free-standing compliance functions help to ensure independent legal reviews and financial analyses of the institution's compliance activities. By separating the compliance function from the key management positions of general counsel or CFO (where the size and structure of the organization make this a feasible option), a system of checks and balances is established to more effectively achieve the compliance program's goals.

[82] For multi-site Medicare+Choice organizations, the OIG encourages coordination with each facility owned by the Medicare+Choice organization through the use of compliance liaisons at each site.

[83] *See* note 101.

coordinate internal investigations (*e.g.*, responding to reports of problems or suspected violations) and any resulting corrective action with all departments, providers, agents, and, if appropriate, independent contractors;

- Developing policies and programs that encourage managers and employees to report suspected fraud and other improprieties without fear of retaliation; and
- Continuing the momentum of the compliance program and the accomplishment of its objectives long after the initial years of implementation.

2. Compliance Committee

The OIG recommends that a compliance committee be established to advise the compliance officer and assist in the implementation of the compliance program.[84] When assembling a team of people to serve as the Medicare+Choice organization's compliance committee, the company should include individuals with a variety of skills.[85] The OIG strongly recommends that the compliance officer manage the compliance committee. Once a managed care organization chooses the people that will accept the responsibilities vested in members of the compliance committee, the organization must train these individuals on the policies and procedures of the compliance program.

The committee's responsibilities should include:

- Analyzing the organization's regulatory environment, the legal requirements with which it must comply and specific risk areas;
- Assessing existing policies and procedures that address these areas for possible incorporation into the compliance program;
- Working with appropriate departments, as well as affiliated providers, to develop standards of conduct and policies and procedures that promote allegiance to the organization's compliance program;
- Recommending and monitoring, in conjunction with the relevant departments, the development of internal systems and controls to carry out the organization's standards, policies and procedures as part of its daily operations;
- Determining the appropriate strategy/approach to promote compliance with the program and detection of any potential violations, such as through hotlines and other fraud reporting mechanisms;
- Developing a system to solicit, evaluate and respond to complaints and problems; and
- Monitoring internal and external audits and investigations for the purpose of identifying troublesome issues and deficient areas experienced by the Medicare+Choice organization and implementing corrective and preventive action.

The committee may also address other functions as the compliance concept becomes part of the overall operating structure and daily routine.

C. Conducting Effective Training and Education

The proper education and training of corporate officers, managers, employees and the continual retraining of current personnel at all levels are significant elements of an effective compliance program. Where appropriate, the Medicare+Choice organization may afford its contractors the opportunity to participate in the organization's compliance training and educational programs.[86] The contractors should be encouraged to develop their own compliance programs that complement the Medicare+Choice organization's compliance program.

1. Formal Training Programs

To ensure the appropriate information is being disseminated to the correct individuals, the Medicare+Choice organization training program should include both a general session and specialized sessions on specific risk areas. All employees should attend the general session on compliance. Employees whose job responsibilities implicate specific risk areas (e.g., marketing or data collection and submission) should attend the specialized sessions.

The OIG recommends that attendance and participation at training programs be made a condition of continued employment and that failure to comply with training requirements should result in disciplinary action, including possible termination, when such failure is serious. The Medicare+Choice organization should retain adequate records of its training of employees, including attendance logs and material distributed at training sessions. New employees should be targeted for training early in their employment, and to the extent that they perform complicated tasks with greater organizational legal exposure, should be monitored closely until all training is completed.

a. General Sessions

As part of their compliance programs, Medicare+Choice organizations should require all employees to attend annual training that emphasizes the organization's commitment to compliance with all Federal and State statutes and requirements, and the policies of private payors. While the OIG recognizes that not all standards, policies and procedures need to be communicated to all employees, it believes that the general message about the importance of complying with fraud and abuse laws and other ethical areas should be addressed and made part of the general training.

As part of the initial training, the standards of conduct should be distributed to all employees. Every employee should be required to sign and date a statement that reflects the employee's knowledge of, and commitment to the standards of conduct. This attestation should be retained in the employee's personnel file. The standards of conduct should be updated and revised as appropriate.

b. Specialized Training

Because Medicare+Choice organizations are responsible for compliance in all of the risk areas mentioned in section II.A. above, the OIG recommends Medicare+Choice organizations require individuals who are involved in the risk areas to receive specialized training. For example, marketing employees should receive training on the marketing, enrollment, disenrollment and anti-kickback policies. All employees who work with beneficiaries or providers regarding medical services should receive appropriate training on the risks associated with underutilization. Those employees who are involved in developing enrollment, encounter and ACR data should receive training on

[84] The compliance committee benefits from having the perspectives of individuals with varying responsibilities in the organization, such as operations, finance, audit, human resources, utilization review, medicine, claims processing, information systems, legal, marketing, enrollment and disenrollment as well as employees and managers of key operating units. These individuals should have the requisite seniority and comprehensive experience within their respective departments to implement any necessary changes in the company's policies and procedures. Some organizations have found it helpful to include an outside director on its compliance committee to provide a different perspective.

[85] A Medicare+Choice organization should expect its compliance committee members and compliance officer to demonstrate high integrity, good judgment, assertiveness and an approachable demeanor, while eliciting the respect and trust of employees of the organization. The compliance committee members should also have significant professional experience in working with quality assurance, enrollment, marketing, clinical records and auditing principles.

[86] While some Medicare+Choice organizations may encourage providers to participate in education programs designed for its own employees, other organizations may prefer to develop provider-specific education programs about compliance.

HCFA policies in these areas. Clarifying and emphasizing these areas of concern through training and educational programs are particularly relevant to a Medicare+Choice organization's marketing and financial personnel, in that the pressure to meet business goals may render these employees particularly vulnerable to engaging in prohibited practices.

The OIG recommends Medicare+Choice organizations' compliance programs address the need for periodic professional education courses for relevant personnel. Such courses would be in addition to the internal training sessions provided by the organization.

c. Format of the Training Program

The OIG suggests all relevant levels of personnel be made part of various educational and training programs of the Medicare+Choice organization. Employees should be required to have a minimum number of educational hours per year, as appropriate, as part of their employment responsibilities. A variety of teaching methods, such as interactive training and training in several different languages (including the translation of standards of conducts and other materials), particularly where a Medicare+Choice organization has a culturally diverse staff, should be implemented so that all affected employees are knowledgeable about the institution's standards of conduct and procedures for alerting senior management to problems and concerns. In addition, the materials should be written at appropriate reading levels for targeted employees. All training materials should be designed to take into account the skills, knowledge and experience of the individual trainees. Post-training tests can be used to assess the success of training provided and employee comprehension of the Medicare+Choice organization's policies and procedures.

2. Informal and Ongoing Compliance Training

It is essential that compliance issues remain at the forefront of the Medicare+Choice organization's priorities. The organization must demonstrate its commitment by continuing to disseminate the compliance message. One effective mechanism to achieve this goal is to publish a monthly compliance newsletter, or devote a section to compliance in a general weekly or monthly existing newsletter. This would allow the Medicare+Choice organization to address specific examples of problems the company encountered during its ongoing audits and risk analysis, while reinforcing the company's firm commitment to the general principles of compliance and ethical conduct. The newsletter could also include the risk areas identified in current OIG publications or investigations. Finally, the Medicare+Choice organization could use the newsletter as a mechanism to notify employees of significant legal or regulatory developments. The Medicare+Choice organization should maintain its newsletters in a central location to document the guidance offered and provide new employees with access to guidance previously provided. Other written materials, such as posters, fliers or articles in other company publications, could also be used to disseminate the compliance message.

Another effective method of maintaining the presence of the compliance message is to maintain a website devoted to compliance issues. This could be linked to the homepage of the organization. Many organizations have chosen to maintain these sites internally on the Intranet to alleviate any confidentiality concerns. The Intranet (or Internet) also facilitates the use of hypertext links that allow the organization to maintain a centralized source on statutory, regulatory and other program guidance disseminated by HCFA, the OIG, the Department of Justice and the Congress. These links, along with any other webpages that the Medicare+Choice organization deems pertinent and useful can be assembled on a single site that can, by hypertext link, provide access to all of these useful resources.

D. Developing Effective Lines of Communication

An open line of communication between the compliance officer and Medicare+Choice organization personnel, as well as among the organization, health care providers and enrollees, is critical to the successful implementation of a compliance program and the reduction of any potential for fraud, abuse and waste. Each organization should have in place both a mechanism for the reporting of improper conduct, as well a mechanism for more routine types of communication among the compliance officer and relevant groups.

1. Hotline or Other System for Reports of Potential Misconduct

Each Medicare+Choice organization should have in place a hotline or other mechanism [87] through which employees, enrollees or other parties can report potential violations of the organization's compliance policies or of Federal or State health care program requirements. In any event, several independent reporting paths should be created for an employee to report fraud, waste or abuse so that such reports cannot be diverted by supervisors or other personnel. If the organization establishes a hotline, the telephone number should be made readily available to all employees, enrollees and independent contractors, by circulating the number on wallet cards or conspicuously posting the telephone number in common work areas.[88]

Matters reported through the hotline or other communication sources that suggest violations of compliance policies, Federal and State health care program requirements, regulations or statutes should be documented and investigated promptly to determine their veracity and significance. A log should be maintained by the compliance officer or authorized designee that records such calls, including the nature of any investigation and its results.[89] Such information should be included in reports to the governing body, the CEO and compliance committee.

Employees, enrollees and providers should be permitted to report matters on a confidential basis. To encourage such reporting, written confidentiality and non-retaliation policies should be developed. Employees, enrollees, providers and other contractors should be made aware of these policies to encourage communication and the reporting of incidents of potential fraud.[90] While the Medicare+Choice

[87] The OIG recognizes that it may not be financially feasible for a small Medicare+Choice organization to maintain a telephone hotline dedicated to receiving calls solely on compliance issues. These companies may explore alternative methods, *e.g.*, contracting with an independent source to provide hotline services or establishing a written method of confidential disclosure.

[88] Medicare+Choice organizations should also post in a prominent, available area the HHS–OIG Hotline telephone number, 1–800–447–8477 (1–800–HHS–TIPS), in addition to any organization's hotline number that may be posted.

[89] To efficiently and accurately fulfill such an obligation, the Medicare+Choice organization should create an intake form for all issues identified through reporting mechanisms. The form could include information concerning the date the potential problem was reported, the internal investigative methods utilized, the results of any investigation, any corrective action implemented, any disciplinary measures imposed and any overpayments and monies returned.

[90] The OIG believes that whistleblowers should be protected against retaliation, a concept embodied in the provisions of the False Claims Act. See 31 U.S.C. 3730(h). In many cases, employees sue their employers under the False Claims Act's qui tam

Continued

organization should always strive to maintain the confidentiality of the reporter's identity, the policies should explicitly communicate that there may be a point where the individual's identity may become known or may have to be revealed.

The OIG recognizes that assertions of fraud and abuse by those who may have participated in illegal conduct or committed other malfeasance raise numerous complex legal and management issues that should be examined on a case-by-case basis. The compliance officer may wish to work closely with legal counsel to obtain guidance on these issues.

2. Routine Communication/Access to the Compliance Officer

While it is crucial that Medicare+Choice organizations have effective systems in place for the reporting of suspected misconduct, it is equally important that the compliance officer foster more routine communication both among its employees and among its health care providers and enrollees.

With respect to its own employees, the OIG encourages the establishment of procedures for personnel to seek clarification from the compliance officer or members of the compliance committee in the event of any confusion or question regarding a company policy, practice or procedure. Questions and responses should be documented and dated and, if appropriate, shared with other staff so that standards, policies, practices and procedures can be updated and improved to reflect any necessary changes or clarifications. The compliance officer may want to solicit employee input in developing these communication and reporting systems. The methods discussed above relating to ongoing training and education are an integral part of this communication.[91]

The communication and coordination function of the compliance program serves an even more critical role in the context of the managed care environment because the managed care entity serves as an intermediary between the health care provider and the enrollee. In fact, the raison d'être of a managed care organization is to coordinate the care of its enrollees. As with providers, communications with beneficiaries and communications with HCFA (and its designees) must demonstrate the highest level of integrity, honesty and judgment. The Medicare+Choice organization should implement methods to encourage communication among its enrollees and providers. For example, as appropriate, a Medicare+Choice organization should communicate the results of audits, disenrollment surveys, utilization data and quality of care determinations to its contracting suppliers and providers in order to facilitate open discussion regarding appropriate health care delivery.

E. Auditing and Monitoring

An ongoing evaluation process is critical to a successful compliance program.[92] The OIG believes an effective program should incorporate thorough monitoring of its implementation and regular reporting to senior company officers. Compliance reports created by this ongoing monitoring, including reports of suspected noncompliance, should be maintained by the compliance officer and reviewed with the Medicare+Choice organization's senior management and the compliance committee. The extent and frequency of the audit function may vary depending on factors such as the size of the company, the resources available to the company, the company's prior history of noncompliance and the risk factors that are prevalent in a particular organization. However, all Medicare+Choice organizations have an obligation to establish an adequate audit function and meet all of HCFA's requirements.

Although many monitoring techniques are available, one effective tool to promote and ensure compliance is the performance of regular, periodic compliance audits by internal or external auditors who have expertise in Federal and State health care statutes, regulations and Federal health care program requirements. The audits should focus on the Medicare+Choice organization's programs or divisions, including external relationships with third-party contractors, specifically those with substantive exposure to Government enforcement actions. The audits should cover the range of programmatic requirements of the Medicare+Choice program and comply with generally accepted protocols governing such audits. In particular, the audits should focus on the risk areas identified earlier in this document, especially the data and information that affect payments by Medicare. Finally, the Medicare+Choice organization should focus on any areas of specific concern identified within that organization and those that may have been identified by any outside agency, whether Federal or State.

Monitoring techniques may include sampling protocols that permit the compliance officer to identify and review variations from an established baseline.[93] Significant variations from the baseline should trigger a reasonable inquiry to determine the cause of the deviation. If the inquiry determines that the deviation occurred for legitimate, explainable reasons, the compliance officer or manager may want to limit any corrective action or take no action. If it is determined that the deviation was caused by improper procedures, misunderstanding of rules, including fraud and systemic problems, the Medicare+Choice organization should take prompt steps to correct the problem.[94] Any overpayments discovered as a result of such deviations should be reported promptly to HCFA (or its designees), with appropriate documentation and a thorough explanation of the reason for the overpayment.[95]

An effective compliance program should also incorporate periodic (at a minimum, annual) reviews of whether the program's compliance elements have been satisfied, *e.g.*, whether there has been appropriate dissemination of the program's standards, training, ongoing educational programs and

provisions out of frustration because of the company's failure to take action when a questionable, fraudulent or abusive situation was brought to the attention of senior corporate officials.

[91] In addition to methods of communication used by current employees, an effective employee exit interview program could be designed to solicit information from departing employees regarding potential misconduct and suspected violations of the Medicare+Choice organization's policy and procedures.

[92] The OIG recognizes that Medicare+Choice organizations have a variety of ongoing monitoring processes and would most likely incorporate these existing processes, as appropriate, into their compliance program. We do not anticipate that the compliance monitoring function would exist entirely independently of the operational program.

[93] The OIG recommends that when a compliance program is established in a Medicare+Choice organization, the compliance officer, with the assistance of department managers, take a ''snapshot'' of the organization's operations from a compliance perspective. This assessment can be undertaken by outside consultants, law or accounting firms, or internal staff, with authoritative knowledge of health care compliance requirements. This ''snapshot,'' often used as part of bench marking analysis, becomes a baseline for the compliance officer and other managers to judge the Medicare+Choice organization's progress in reducing or eliminating potential areas of vulnerability. Medicare+Choice organizations should track statistical data on utilization review and quality data based on customer satisfaction and renewal data. This will facilitate identification of problem areas and elimination of potential areas of abusive or fraudulent conduct.

[94] Prompt steps to correct the problem include contacting the appropriate provider in situations where the provider's actions contributed to the problem.

[95] In addition, when appropriate, as referenced in section G, below, reports of fraud or systemic problems should also be made to the appropriate Government authority.

disciplinary actions.[96] This process will verify actual conformance by all departments with the compliance program. Such reviews may support a determination that appropriate records have been created and maintained to document the implementation of an effective program.

The reviewers involved in any audits should:

- Possess the qualifications and experience necessary to adequately identify potential issues with the subject matter to be reviewed;
- Be independent of the specific functional area examined;
- Have access to existing audit resources, relevant personnel and all relevant areas of operation;
- Present written evaluative reports on compliance activities to the CEO, governing body members of the compliance committee on a regular basis, but not less than annually; and
- Specifically identify areas where corrective actions are needed.

In the Medicare+Choice context, a variety of different methods will be necessary to adequately monitor and evaluate the ongoing operations of the Medicare+Choice organization. In general, the OIG recommends the use of techniques such as on-site visits, questionnaires (for providers, enrollees and employees), and trend analyses, to name just several.[97] Because the auditing and monitoring function is very different and much more complex in the managed care context than in any other segment of the health care industry, we have provided additional guidance on the methods to be used in evaluating selected risk areas.

1. Marketing/Enrollment/Diseenrollment

Developing a system for evaluating the compliance of the marketing, enrollment and disenrollment functions of a Medicare+Choice organization requires innovative techniques. Each Medicare+Choice organization will have to develop an individualized method as to how to obtain this data. Some of the methods that the OIG suggests include: using secret shoppers; surveying[98] current enrollees;[99] and conducting exit interviews with former enrollees (particularly those that disenrolled just prior to obtaining an expensive service) on their experience with the Medicare+Choice marketing and enrollment process. Once this data is collected, it must be maintained in a format that can be accessed readily.

In an effort to integrate the monitoring function with its training function, a Medicare+Choice organization may wish to test its marketing staff on their knowledge of the company's policies and procedures, as well as the Federal and State statutes that govern the marketing process. This assessment can be developed using many formats. Many companies have customized interactive software to test employees' knowledge of relevant policies and procedures. It may also be formulated in the traditional written version.

Methods used to monitor marketing agents include the analysis of disenrollment data to identify marketing agents with high and low percentages of member disenrollments within a set number of days (*e.g.*, 90 days). In addition, Medicare+Choice organizations may want to establish enrollment verification systems requiring that a different individual from the sales agent meet with beneficiaries who have applied for enrollment to ensure that they understand restrictions of the plan, such as the lock-in provision.

Finally, it is essential for all marketing materials to be reviewed by an independent and competent reviewer, such as an individual in the general counsel's office, to ensure that they do not mislead, confuse or misrepresent any aspect of the plan. Similarly, a Medicare+Choice organization may want to consider having the materials examined by individuals familiar with the claims processing department and utilization review office for consistency with the policies, procedures and practices of these departments.

2. Underutilization and Quality of Care

Procedures for tracking and reporting utilization review data are vital to the success of any compliance endeavor. Medicare+Choice organizations should periodically review the service areas that are part of the Medicare+Choice organization to ensure that enrollees are receiving adequate access to care. In reviewing service areas, Medicare+Choice organizations should collect data on a variety of topics, including the number of primary care physicians in the service area, the number and type of specialists in the service area, the waiting time for appointments, the telephone access to the Medicare+Choice organization, rates of denial of emergency services claims and the problems associated with the coordination of care. All of this data should be maintained in a database in a format that can be used to generate statistical data and analysis.

Medicare+Choice organizations should ensure that there are adequate systems in place to monitor underutilization and inappropriate denials. Such procedures include collecting data on utilization patterns and detecting aberrant patterns. This data should be checked against utilization rates in the industry. This function could be performed by a medical affairs department that is responsible for regular review of claims, the payment system, encounter data and medical record review to assess the degree to which care is under (or over) utilized.

Similarly, the Medicare+Choice organization should survey its enrollees on utilization patterns and whether they felt they were subjected to inadequate health care services, inappropriate denials, type of practitioner providing treatment and whether a beneficiary's request for another provider was denied or approved. Such survey results should be reviewed and investigated, when appropriate. Generally, these may be skewed in favor of the Medicare+Choice organization if the enrollees are current members. Presumably, if an enrollee was truly dissatisfied with the Medicare+Choice organization's attitude toward enrollee rights, the enrollee would have disenrolled from the plan. As a result, a Medicare+Choice organization should evaluate both current enrollee satisfaction surveys and exit interview surveys of former enrollees.

Medicare+Choice organizations have a good source of information regarding utilization issues, simply by tracking the type of appeals and grievances they receive from beneficiaries. This information should be tracked in a database that can be easily accessed by type of grievance or appeal and results.

[96] One way to assess the knowledge, awareness and perceptions of the Medicare+Choice organization's staff is through the use of a validated survey instrument (*e.g.*, employee questionnaires, interviews or focus groups).

[97] Medicare+Choice organizations may want to consult HCFA's Contractor Performance Monitoring System Manual to get additional ideas for monitoring methods. In addition, organizations may want to consult the OAS website for information on conducting audits, including information on statistical sampling (RAT–STATS). *See* note 10.

[98] Medicare+Choice organizations may be able to use response data from already existing surveys, such as from the Health of Seniors survey (HEDIS) and for certain organizations, the mandatory disenrollment surveys required under PIP.

[99] It should be noted, while this method may be less expensive, it may not provide unbiased data, particularly in the area of selective marketing. In fact, in the selective marketing area, the data may be skewed significantly in favor of the Medicare+Choice organization.

3. Data Collection and Submission Processes

Given the importance of the enrollment, encounter and ACR data, the Medicare+Choice organization should develop ways to audit this information to assure its accuracy, completeness and truthfulness, on best knowledge, information and belief. As indicated earlier, such methods would ordinarily include sample audits and spot checks of the system. These activities should be facilitated by the fact that HCFA requires Medicare+Choice organizations to detail in their contractual relationships with providers the access that they will need to the provider's medical record documentation.

4. Anti-Kickback and Other Inducements

Medicare+Choice organizations should periodically review their contractual documents and discussions with providers to ensure that ''swapping'' is not occurring. In addition, contracts with marketing personnel should be reviewed by legal counsel to be sure they do not violate the anti-kickback statute and other applicable statutes and regulations.

F. Enforcing Standards Through Well-Publicized Disciplinary Guidelines and Policies Regarding Dealings With Ineligible Persons

The OIG recommends that all Medicare +Choice organizations' compliance programs include several key policies in the area of personnel/human resources. The first deals with the establishment, and consistent application of, appropriate disciplinary policies to deal with improper conduct and the second deals with the employment of certain ineligible individuals.

1. Consistent Enforcement of Disciplinary Policies

An effective compliance program should include guidance regarding disciplinary action for all employees who have failed to comply with the Medicare+Choice organization's standards of conduct, policies and procedures, Federal health care program requirements, or Federal and State laws, or those who have otherwise engaged in wrongdoing. It is vital to publish and disseminate the range of possible disciplinary actions for improper conduct and to educate officers and other staff regarding these standards. Employees should be advised that disciplinary action may be appropriate where a responsible employee's failure to detect a violation is attributable to his or her negligence or reckless conduct. The sanctions could range from oral warnings to suspension, termination or other sanctions, as appropriate. While each situation must be considered on a case-by-case basis to determine the appropriate sanction, intentional or reckless noncompliance should subject transgressors to significant sanctions.

The written standards of conduct should elaborate on the procedures for handling disciplinary problems and identify who will be responsible for taking appropriate action. For example, while disciplinary actions can be handled by department managers, others may have to be resolved by a more senior official of the organization. Personnel should be advised by the organization that disciplinary action will be taken on a fair and equitable basis, that is, all levels of employees should be subject to similar disciplinary action for the commission of similar offenses. Managers and supervisors should be held accountable to implement the disciplinary policy consistently so that the policy will have the required deterrent effect.

2. Employment of, and Contracting With, Ineligible Persons

All Medicare+Choice organizations should use care when delegating substantial discretionary authority to make decisions that may involve compliance with the law or compliance oversight. In particular, the organization should ensure that it does not delegate such responsibilities to individuals or entities that it knows, or should have known, have a propensity to engage in inappropriate or improper conduct. Pursuant to the compliance program, a Medicare+Choice organization's policies should prohibit the hiring of, or entering into, contracts with individuals or entities who have been recently convicted of a criminal offense related to health care or who are listed as debarred, excluded or otherwise ineligible for participation in Federal health care programs.[100] The policies should require the Medicare+Choice organization to utilize Government resources to determine whether such individuals or entities are debarred or excluded. These resources should be used for both potential employees (as part of the employment application process, which should also include a reasonable and prudent background investigation), and should be used to periodically check existing employees and contractors.

Lists of debarred and excluded individuals and entities are currently maintained by both the OIG and the General Services Administration.[101] By approximately January 2000, the Healthcare Integrity Protection Data Bank (HIPDB) will be available to Medicare+Choice organizations (for a nominal fee) to use in conducting these checks on employees and contractors.[102] The HIPDB is an electronic data collection program that will collect, store and disseminate reports on practitioners, providers and suppliers that have been the subject of health care related final adverse actions in criminal, civil and administrative proceedings. The final adverse actions to be reported to the HIPDB include criminal convictions or civil judgments related to the delivery of health care, actions by Federal or State agencies responsible for licensing or certification of health care providers, suppliers and practitioners, exclusions from Federal or State health care programs, and certain final adverse actions taken by health plans.[103] Pending the resolution of any known criminal charges or proposed debarment or exclusion, the OIG recommends that such individuals should be removed from direct responsibility for, or involvement in, any Federal health care program. If labor agreements make such removal legally impermissible, the OIG recommends that the individual be closely supervised in all aspects of his or her duties that relate to Federal health care programs. If the resolution of the matter results in conviction, debarment or exclusion of a current employee or contractor, then the Medicare+Choice organization must not continue to employ or contract with such individual for the provision of health care, utilization review, medical social work or administrative services.[104]

G. Responding to Detected Offenses, Developing Corrective Action Initiatives, and Reporting to Government Authorities

Violations of the Medicare+Choice organization's compliance program, failures to comply with applicable

[100] Prospective employees who have been officially reinstated into the Medicare and Medicaid programs by the OIG may be considered for employment upon proof of such reinstatement.

[101] OIG's List of Excluded Individuals/Entities is available on the Internet at http://www.hhs.gov/oig/ and the GSA list of debarred contractors is available on the Internet at http://www.arnet.gov/epls.

[102] 42 U.S.C. 1320a–7e.

[103] Note that agencies and health plans are *required* by HIPAA to report to the HIPDB. Failure by a health plan to make the mandated reports to the HIPDB may result in CMPs being assessed against the health plan, pursuant to 42 U.S.C. 1320a–7e(b)(6).

[104] 42 CFR 422.752(a)(8).

Federal or State law, rules and program instructions and other types of misconduct may threaten a Medicare+Choice organization's status as a reliable, honest and trustworthy company. Detected but uncorrected misconduct can seriously endanger the mission, reputation and legal status of the organization. Consequently, it is important that the chief compliance officer or other management officials promptly investigate and take appropriate action with respect to any reports or reasonable indications of suspected noncompliance.[105]

Pending issuance of final HCFA regulations [106] regarding the obligations of a Medicare+Choice organizations to report misconduct, the OIG recommends that the following procedures be followed when a Medicare+Choice organization discovers from any source evidence of misconduct related to payment or delivery of health care items or services under the Medicare+Choice contract. First, the Medicare+Choice organization should conduct a timely, reasonable inquiry into the misconduct. Second, if after reasonable inquiry, the organization has determined that the misconduct may violate criminal, civil or administrative law, it should report the existence of the misconduct promptly to the appropriate Government authority [107] within a reasonable period, but not more than 60 days [108] after a determination that a violation may have occurred.[109] When reporting potential violations to the Government, a Medicare+Choice organization should provide all evidence relevant to the potential violation, including the impact of the potential violation on beneficiaries and any potential cost impact. Finally, the Medicare+Choice organization should initiate and implement appropriate corrective actions, *e.g.*, repayment of overpayments, disciplinary actions and modifications of procedures to ensure the problem does not recur.

Failure to notify HCFA of an overpayment within a reasonable period of time could be interpreted as an intentional attempt to conceal the overpayment from the Government, thereby establishing an independent basis for a criminal violation with respect to the Medicare+Choice organization, as well as any individuals who may have been involved.[110] For this reason, Medicare+Choice compliance programs should ensure that overpayments are identified quickly and promptly return overpayments obtained from Medicare or other Federal health care programs.

The OIG recommends that Medicare+Choice organizations consider the following guidance as they structure internal inquiries. Depending upon the nature of the alleged violations, an internal inquiry will probably include interviews and a review of relevant documents. Medicare+Choice organizations should consider engaging outside counsel, auditors or health care experts to assist in an inquiry. Records of the inquiry should contain documentation of the alleged violation, a description of the process (including the objectivity of the investigators and methodologies utilized), copies of interview notes and key documents, a log of the witnesses interviewed and the documents reviewed, and the results of the investigation, *e.g.*, any disciplinary action taken and any corrective action implemented. Although any action taken as the result of an inquiry will necessarily vary depending upon the Medicare+Choice organization and the situation, Medicare+Choice organizations should strive for some consistency by utilizing sound practices and disciplinary protocols. Further, after a reasonable period, the compliance officer should review the circumstances that formed the basis for the inquiry to determine whether similar problems have been uncovered or modifications of the compliance program are necessary to prevent and detect other inappropriate conduct or violations.

If an inquiry of an alleged violation is undertaken and the compliance officer believes the integrity of the inquiry may be at stake because of the presence of employees under investigation, those subjects should be removed from their current work activity until the inquiry is completed (unless an internal or Government-led undercover operation known to the Medicare+Choice organization is in effect). In addition, the compliance officer should take appropriate steps to secure or prevent the destruction of documents or other evidence relevant to the inquiry. If the Medicare+Choice organization determines disciplinary action is warranted, it should be prompt and imposed in accordance with the organization's written standards of disciplinary action.

III. Conclusion

Through this document, the OIG has attempted to provide a foundation for the development of effective and comprehensive Medicare+Choice compliance programs. These principles can also be used by entities to develop compliance programs applicable to other Federal and health care programs, as well as for their private lines of business. As previously stated, however, each program must be tailored to fit the needs and resources of an individual organization, depending upon its particular corporate structure, mission and employee composition. The statutes, regulations and guidelines of the Federal and State health insurance programs, as well as the policies and procedures of the private health plans, should be integrated into every Medicare+Choice organization's compliance program.

The OIG recognizes that the health care industry, which reaches millions of beneficiaries and expends about a trillion dollars annually, is constantly evolving. In no area of the industry is this more evident than in the growing area of managed care, particularly Medicare managed care. As a result, the time is right for Medicare+Choice organizations to implement strong, voluntary compliance programs. Compliance is a dynamic process that helps to ensure Medicare+Choice organizations are better able to fulfill their commitment to ethical behavior and to meet the changes and challenges being imposed upon them by the Congress and private insurers. It is

[105] Instances of non-compliance must be determined on a case-by-case basis. The existence, or amount, of a *monetary* loss to a health care program is not solely determinative of whether or not the conduct should be investigated and reported to governmental authorities. In fact, there may be instances where there is no readily identifiable monetary loss at all, but corrective action and reporting are still necessary to protect the integrity of the applicable program and its beneficiaries.

[106] 42 CFR 422.501(b)(vi).

[107] For example, if the potential violation relates to federal criminal law, the Civil False Claims Act, the civil money penalty authorities (primarily under sections 1128A and 1857 of the Social Security Act) and related statutes administered by the HHS/OIG, the report must be made to that office.

[108] While the OIG recommends reporting in 60 days, the organization must report within 30 days in order to attempt to obtain favorable treatment under the Civil False Claims Act. See note 6. In addition, reporting such conduct may be considered a mitigating factor by the OIG in determining administrative sanctions (*e.g.*, penalties, assessments and exclusion), if the reporting company becomes the subject of an OIG investigation. *See* 62 FR 67392 (12/24/97).

[109] The OIG believes that some potential violations may be so serious that they warrant immediate notification to Government authorities, prior to, or simultaneous with, commencing an internal inquiry. Examples of such situations include instances when the misconduct: (1) Is a clear violation of civil fraud or criminal law; (2) has a significant adverse effect on the quality of care provided to program beneficiaries (in addition to any other legal obligations regarding quality of care); or (3) indicates evidence of a systemic failure to comply with applicable laws or an existing corporate integrity agreement, regardless of the financial impact on Federal health care programs.

[110] 42 U.S.C. 1320a–7b(a)(3).

OIG's hope that voluntarily created compliance programs will enable Medicare+Choice organizations to meet their goal of providing efficient and quality health care and, at the same time, substantially reducing fraud, waste and abuse.

Dated: November 5, 1999.

June Gibbs Brown,

Inspector General.

[FR Doc. 99–29632 Filed 11–12–99; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine Review Committee.

Date: November 17, 1999.

Time: 2 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: D.G. Patel, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, Bethesda, MD 20892, 301–435–0824.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Comparative Medicine Review Committee.

Date: November 18, 1999.

Time: 2 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: D.G. Patel, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, National Institutes of Health, Bethesda, MD 20892, 301–435–0824.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research 93.333; 93.371, biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, (HHS)).

Dated: November 4, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29642 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Naional Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child and Human Development Special Emphasis Panel, U10 Research Grant Application Review.

Date: December 8–10, 1999.

Time: 8:30 p.m. to 5 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: American Inn of Bethesda, 8130 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jon M. Ranhand, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: November 4, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29636 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Deafness and Other Communications Disorders Special Emphasis Panel.

Date: December 2, 1999.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Melissa Stick, Phd, Mph, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute of Deafness and Other Communications Disorders Special Emphasis Panel.

Date: December 7, 1999.

Time: 10:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Craig A. Jordan, Phd, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: November 4, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29637 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors NIAD.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIAID.

Date: December 6–8, 1999.

Time: December 6, 1999, 8 a.m. to adjournment.

Agenda: To review and evaluate the staff and programs of the Laboratory of Allergic Diseases; Laboratory of Immunogenetics; Laboratory of Immunopathology; Molecular and Cellular Immunogenetics Section; and Structural Biology Section.

Place: Twinbrook II Conference Room, 12441 Parklawn Drive, Rockville, MD 20852.

Contact Person: Thomas J. Kindt, PhD, Director, Division of Intramural Research, National Inst. of Allergy & Infectious Diseases, Building 10, Room 4A31, Bethesda, MD 20892, (301) 496–3006, tk9c@nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 4, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29640 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: February 18, 2000.

time: 8:30 a.m. to 5 p.m.

Agenda: The Committee will provide advice on scientific priorities, policy, and program balance at the Division level. The Committee will review the progress and productivity of ongoing efforts, and identify critical gaps/obstacles to progress.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: Rona L. Siskind, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, Room 4139, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7601, 301–425–3732.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 4, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29641 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Molecular Toxicology of DNA Adducts.

Date: November 9–11, 1999.

Time: November 9, 1999, 7 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Danfords Inn, 25 East Broadway, Port Jefferson, NY 11777.

Time: November 10, 1999, 8:30 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: Danfords Inn, 25 East Broadway, Port Jefferson, NY 11777.

Time: November 11, 1999, 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Danfords Inn, 25 East Broadway, Port Jefferson, NY 11777.

Contact Person: J. Patrick Mastin, Phd; Scientific Review Administrator, NIEHS, P.O. Box 12233 MD E24, Research Triangle Park, NC 27709, (919) 541–1446.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: November 4, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29643 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 6, 1999.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn by Marriott, 7335 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Sheila O'Malley, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9606, Bethesda, MD 20892-9606, 301-443-6470.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: November 5, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29644 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(4) and 552(b)(6). Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Instiute of Mental Health Special Emphasis Panel.

Date: November 8, 1999.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Asikiya Walcourt, Phd., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, 6001 Executive Boulevard, Room 6138, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award from Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: November 5, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29645 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Carcinogenicity of Drinking Water Disinfection By-Products (R03).

Date: December 2, 1999.

Time: 10 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, South Campus, Building 101, Conference Room C, Research Triangle Park, NC 27709.

Contact Person: J. Patrick Mastin, PhD, Scientific Review Administrator, NIEHS, P.O. Box 12233, MD EC–24, Research Triangle Park, NC 27709, (919) 541–1446.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Growth Factors in Interstitial Pulmonary Fibrosis.

Date: December 7, 1999.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hawthorne Suites, 300 Meredith Drive, Durham, NC 27713.

Contact Person: Ethel B. Jackson, DDS, Chief, Scientific Review Branch, National Institute of Environmental Health Sciences, P.O. Box 12233 MD EC–24, Research Triangle Park, NC 27709, (919) 541–7826.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS).

Dated: November 4, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29646 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–7 J4.

Date: November 10, 1999.

Time: 2 P.M. to 3 P.M.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS25F, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB (J1).

Date: November 17–18, 1999.

Time: 8 P.M. to 3 P.M.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Dulles Airport, 13869 Park Center Road, Herndon, VA 20171.

Contact Person: Ned Feder, MD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS25s, National Institutes of Health, Bethesda, MD 20892, (301) 594–8890.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB 2(J2)P.

Date: November 29–December 1, 1999.

Time: 7 P.M. to 7 P.M.

Agenda: To review and evaluate grant applications.

Place: Claremont Resort and Spa, 41 Tunnel Road, Berkeley, CA 94705.

Contact Person: Shan S. Wong, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS43H, National Institutes of Health, Bethesda, MD 20892, (301) 594–7797.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB 4 C4.

Date: December 3, 1999.

Time: 3 P.M. to 4:30 P.M.

Agenda: To review and evaluate grant proposals.

Place: Natcher Building, 45 Center Drive, Room 6AS.25J, Bethesda, Maryland, MD 20892, (Telephone Conference Call).

Contact Person: William E. Elzinga, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building Room 6AS25E, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8895.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1–GRB–6 J1.

Date: December 6–7, 1999.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building Room 6AS–37A, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1–GRB4–J1P.

Date: December 10, 1999.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites, 1300 Concourse Drive, Linthicum, MD 21090.

Contact Person: William E. Elzinga, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building Room 6AS–37A, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8895.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–5(J1P).

Date: December 15–17, 1999.

Time: 7:30 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Charleston Riverview, 301 Savannah Highway, Charleston, SC 29407.

Contact Person: Francisco O. Calvo, PhD, Deputy Chief, Review Branch, DEA, NIDDK, National Institutes of Health, Room 6AS37D, Bldg. 45, Bethesda, MD 20892, 301–594–8897.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 5, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29647 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Contract Proposal Concerning the Effects of Healthy Aging on a Particular Group of Persons Living in Iceland.

Date: November 15, 1999.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: 7201 Wisconsin Ave., Suite 502C, MD 20891, (Telephone Conference Call).

Contact Person: Arthur Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Molecular Pathogenesis of Age-Dependent CNS Degeneration.

Date: November 22–23, 1999.

Time: 7 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson Miyako, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Louise L. HSU, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Contract Proposal to Maintain a Repository for Aging Cells.

Date: November 29, 1999.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Arthur Schaerdel, DVM, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel, Protein Structure and Function in Aging and Related Diseases.

Date: December 8–10, 1999.

Time: 7 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Gaithersburg, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

Contact Person: Paul Lenz, PhD, Scientific Review Administrator, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 5, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29648 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–7 J1 S.

Date: November 19, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lakshmanan Sankaran, Phd, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building Room 6AS25F, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–4 J3 M.

Date: December 6, 1999.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Room 6AS.25J, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: William E. Elzinga, Phd, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8895.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 5, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29649 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 22, 1999.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Julian L. Azorlosa, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, Bethesda, MD 20892, (301) 435–1507.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 1–4, 1999.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Stanford Terrace Inn, 531 Stanford Avenue, Palo Alto, CA 94306.

Contact Person: Nancy Lamontagne, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1726.

Name of Committee: Center for Scientific Review Special Emphasis Panel, VISB Study Section.

Date: December 3, 1999.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn; 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Leonard Jakubczak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 3, 1999.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sami A. Mayyasi, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 3, 1999.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jo Pelham, BA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 5–6, 1999.

Time: 6:00 p.m. to 5 p.m.

Agenda: To review and evalute grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: J. Terrell Hoffeld, PhD, DDS, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, (301) 435–1781.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 4, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29639 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors of the Warren Grant Magnuson Clinical Center.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for with the review, discussion, and evaluation of individual intramural programs and projects conducted by the Clinical Center, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: The Board of Scientific Counselors of the Warren Grant Magnuson Clinical Center.

Date: December 13–14, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Clinical Center Medical Board Room, 2C116, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: David K. Henderson, MD, Deputy Director for Clinical Care, Office of the Director, Clinical Center, National Institutes of Health, Building 10, Room, 2C146, Bethesda, MD 20892, 301/402–0244.

Dated: November 4, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–29638 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: ''Diagnostic and Therapeutic Methods of Detecting and Treating Cancers of Reproductive Tissues''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to the U.S. Patent Application 60/098,993, entitled, ''Diagnostic and Therapeutic Methods of Detecting and Treating Cancers of Reproductive Tissues'' and corresponding foreign patent applications to IDEC Pharmaceuticals, Inc. of San Diego, California. The United States of America is an assignee of the patent rights in these inventions and the contemplated exclusive license may be limited to the use of PAGE–4 plasmid DNA and/or PAGE–4 protein as a vaccine to produce an immune response in humans to eliminate PAGE–4 expressing prostate cancer cells.

DATES: Only written comments and/or applications for a license which are received by NIH on or before January 14, 2000.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments and other materials relating to the contemplated licenses should be directed to: J.R. Dixon, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804. Telephone: (301) 496–7735 ext. 206; Facsimile: (301) 402–0220, E-Mail: DixonJ@OD.NIH.GOV. A signed Confidentiality Agreement will be required to receive copies of any of the patent applications.

Technology Description

PAGE–4 is a human X-linked gene that is strongly expressed in prostate and prostate cancer, and is also expressed in other male and female reproductive tissue (*e.g.*, testis, fallopian tube, placenta, uterus, and uterine cancer). PAGE–4 shows similarity with the GAGE protein family, but it diverges significantly from members of the family so that it appears to belong to a separate family. This, and the existence of another gene, PAGE–2, that share more homology with PAGE–4 than with members of the GAGE family indicates that the PAGE–4 protein belongs to a separate protein family.

The specific detection of PAGE–4 might be valuable for the diagnosis of prostate and testicular tumors, as well as uterine tumors. There are sufficient differences between PAGE–4 and other members of the PAGE and MAGE proteins to produce specific antibodies. Analyses with such antibodies are needed to confirm by immunohistology the expression specificity that is seen in database and mRNA analyses, and to evaluate whether anti-PAGE 4 immunotherapy could be a promising therapeutic approach. One possibility of eliminating PAGE–4 expressing cells could be to use it as a cancer vaccine. Among the many possible approaches to vaccination, one method is direct vaccination with plasmid DNA. In fact, a laboratory at the NIH has been able to obtain good expression of the PAGE–4 protein with mammalian expression plasmids, and has demonstrated that DNA-immunization with such expression constructs leads to good immune responses. Hence, this method may generate anti-PAGE–4 responses, and allow one to analyze if ''PAGE–4-vaccination'' can eliminate PAGE–4 expressing cells, as a therapeutic approach towards neoplasms of the prostate, testis, and uterus.

Prostate Cancer

Prostate Cancer is a disease affecting approximately 1 million men in the U.S.A., with an annual incidence of around 300,000 and approximately 40,000 deaths per year. Control of primary tumor by surgical resection and/or radiation has proven effective in a number of cases, however, metastatic spread, primarily to the bone, especially at late hormone independent stages of the disease, has been more difficult to control and monitor.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7 and may be limited to the field of use of PAGE–4 plasmid DNA and/or PAGE–4 protein as a vaccine to produce an immune response in humans to eliminate PAGE–4 expressing prostate cancer cells. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the exclusive license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license [*i.e.*, completed ''Application for License to Public Health Service Inventions''] filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections will not be made available for public inspection and, to the extent permitted by law, will not be subject to disclosure under the Freedom of Information Act, 5 U.S.C. 552.

Dated: November 5, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–29635 Filed 11–12–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Federal Drug Testing Custody and Control Form

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of proposed revision.

SUMMARY: The Department of Health and Human Services (HHS) establishes the standards for Federal workplace drug testing programs under authority of Public Law 100–71 and Executive Order No. 12564. As a result of the Executive Order and Public Law, HHS published the Mandatory Guidelines for Federal Workplace Drug Testing Programs in the **Federal Register** on April 11, 1988 (53 FR 11979), which were revised on June 9, 1994 (59 FR 29908), to establish comprehensive standards for all aspects of the Federal workplace drug testing program. The Mandatory Guidelines require all urine specimens to be collected using chain of custody procedures to document the integrity and security of the specimen from the time of collection until receipt by the laboratory. To ensure uniformity among all Federal agency workplace drug testing programs, the Mandatory Guidelines require agencies to use an Office of Management and Budget (OMB) approved Federal drug testing custody and control form (Federal CCF) for their programs. Additionally, the Department of Transportation (DOT) has required its regulated industries to use the Federal CCF. The current Federal CCF has been approved for use by OMB until July 31, 2000, for all Federal agency and federally regulated drug testing programs which must comply with the HHS Mandatory Guidelines.

The current Federal CCF is a seven-part form that consists of the following copies: Copy 1 (Original—Must Accompany Specimen to Laboratory (White)), Copy 2 (Second Original—Must Accompany Specimen to Laboratory (White)), Copy 3 (Split Specimen—Must Accompany Split Specimen to Laboratory (White)), Copy 4 (Medical Review Officer Copy (Pink)), Copy 5 (Donor Copy (Green)), Copy 6 (Collector Copy (Yellow)), and Copy 7 (Employer Copy (Blue)). The reverse side of copies 1, 2, 3, 4, 5, and 6 have a Paperwork Reduction Act Notice statement, the reverse side of Copy 5 has a Privacy Act Statement (for Federal employees only), and the reverse side of Copy 7 has instructions for completing the CCF. Additionally, the tamper-evident specimen bottle seal(s)/label(s) are attached to the right side of Copy 1.

This notice provides proposed changes to the current Federal CCF. It incorporates changes based on the HHS and DOT experiences during the past several years as well as many of the recommendations developed by industry representatives (*i.e.*, users and suppliers of the Federal CCF) at two working group meetings held in January and March 1999. The Substance Abuse and Mental Health Services Administration (SAMHSA) believes the proposed changes will make the Federal CCF easier to use and will more accurately reflect the collection process and how results are reported by the drug testing laboratories. The proposed form is provided in Appendix A.

DATES: Written comments on the proposed draft should be submitted by January 14, 2000.

ADDRESSES: Written comments should be addressed to Robert L. Stephenson II, M.P.H., Director (Acting), Division of Workplace Programs, CSAP, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Walter F. Vogl, Ph.D., Drug Testing Section, Division of Workplace Programs, CSAP, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, Maryland 20857, tel. (301) 443–6014, fax (301) 443–3031, or email: wvogl@samhsa.gov.

Discussion

SAMHSA is proposing the following major changes to the Federal CCF. The first major change is to make the revised Federal CCF a six-part form by eliminating the split specimen copy (current Copy 3). Since the split specimen copy is used only when the split specimen is tested (*i.e.*, less than approximately 5 percent of split specimens are tested), it would be more efficient to have the second laboratory report the split specimen test result on Copy 1. For those instances when the split specimen is tested, the primary laboratory will need to make a photocopy of Copy 1 of the Federal CCF and send it along with the split specimen to the second laboratory. Although this procedure requires the primary laboratory to make a photocopy, SAMHSA believes saving the costs for printing a separate split specimen copy for each Federal CCF outweighs the costs associated with the few times that Copy 1 will need to be photocopied by the primary laboratory. In addition, eliminating the split specimen copy will help make the information that appears on later pages more legible.

The second major change is locating the specimen bottle seal(s)/label(s) on the bottom of Copy 1 rather than attaching them to the right side of the form. This change will eliminate the need to have special and expensive wide carriage printers and equipment to handle the automatic processing of the Federal CCF and will standardize the storage and handling requirements to match those for other documents. We believe this change will increase the number of suppliers printing the Federal CCF, will reduce the cost to print the Federal CCF, and reduce the cost of the forms for the user.

The third major change involves simplifying the chain of custody step by requiring the collector to only sign the form once. SAMHSA believes the current requirement for the collector to sign the form three times can be replaced by using one signature because the certification statement signed by the collector clearly describes that the collector had possession of the specimen from the time collector received the specimen from the donor until the collector released the specimen for shipment to the laboratory.

The fourth major change is to provide additional choices for the laboratory to report specimen test results. The current form uses ''Test Not Performed'' to report anything other than a negative or positive result. SAMHSA believes it is more appropriate to provide choices on the form that accurately reflect the handling and reporting of specimen test results, such as, invalid result, adulterated, substituted, or rejected for testing.

The fifth major change is to include a new step on Copy 1 to allow the secondary laboratory to document a result for the split specimen (Bottle B). This change ensures that the primary specimen and split specimen laboratory test results are recorded on the same copy that is provided to the Medical Review Officer if the split specimen is tested.

The sixth major change is placing the Medical Review Officer steps for the primary and split specimens on Copy 2. This change permits the MRO to record the determination for both the primary specimen and the split specimen (if tested) on the same copy (Copy 2).

Appendix A presents the required format and appearance for each copy of

the Federal CCF. SAMHSA recognizes that suppliers use different hardware and software to print forms and minor differences in appearance will occur. For example, the size of each ''check'' box appearing on the form may be different, the font sizes and styles used for letters may be different, or the ''exact'' location of an item on a printed form varies slightly from the location indicated on the sample provided in Appendix A. These minor changes in appearance are permitted since they do not impact on the required format. Other changes permitted on the printed copies include highlighting data entry/information fields where the collector and donor would be providing information and using combs/boxes (rather than a single line) for the donor's SSN to facilitate using optical readers for transferring that information. The colors used to highlight the fields may be different for different fields, but must not prevent making clear photocopies of the information that is printed or handwritten in these highlighted fields. Other required information (*e.g.*, the name and address of the testing laboratory, the specimen identification number appearing on the top of the form and on the specimen bottle seal(s)/label(s)) may be printed on the Federal CCF during the original printing and assembly process or added by ''overprinting'' the six-part printed form after it is assembled.

A detailed discussion of other proposed changes is as follows:

Copy 1

Copy 1 (Laboratory Copy) has a one inch space at the top of the page reserved for the title of the form (Federal Custody and Control Form) that must be printed along the top edge, the OMB Number that must appear in the upper right hand corner (the OMB Number may be placed vertical or horizontal), the name and street address of the laboratory that will receive and test the specimen, a unique preprinted specimen identification number (it may be a bar code with an associated human readable number or only a human readable number), space for the laboratory to assign an accession number after the specimen is received, and any other information (e.g., accounting) the laboratory or user of the form may want to document on the form. There are no restrictions on the font size used for the information appearing in this one inch space.

Step 1 is completed by the collector or employer representative. The employer name and address, the acronym of the Federal Agency under which the specimen is being collected and tested (*e.g.*, DOD, DOI, FRA, FAA), and the MRO name and address may be preprinted or handwritten. The collector will normally enter the donor's social security number after verifying the donor's identity. The collector also marks the appropriate box to indicate the reason for the test and the appropriate box for the drug tests to be performed. The collector then enters the information required for the collection site. This step is essentially the same as for the current Federal CCF except the collection site information has been moved from step 5 on the current form to step 1 on this proposed form.

Step 2 is completed by the collector after receiving the specimen from the donor and measuring the temperature of the specimen. As on the current form, this step requires the collector to mark the appropriate box to indicate if the temperature of the specimen was within the required temperature range; but also requires the collector to indicate whether it is a single or split specimen collection, to indicate if no specimen was collected and why, or to indicate if it was an observed collection and why. SAMHSA believes the additional information is needed to ensure that the collector documents why a specimen was not collected or the reason an observed collection was conducted.

Step 3, as on the current form, instructs the collector to seal the specimen bottle(s), have the donor initial the bottle seal(s), and then instruct the donor to complete step 5 on the MRO copy (Copy 3). This is essentially the same instruction that appears on the current form.

Step 4 is a totally revised chain of custody step that is initiated by the collector and then completed by the laboratory after the specimen is accessioned by the laboratory. This step requires the collector to only sign the form once to certify that the specimen was collected, labeled, sealed, and released for shipment to the laboratory in accordance with Federal requirements. SAMHSA believes that one collector signature is sufficient to document the chain of custody from the time the collector receives the specimen from the donor and prepares the specimen bottle(s) and Federal CCF for shipment to the laboratory. The collector is also required to note the time of the collection, the date of collection, and the specific name of the delivery service to whom the specimen is released for shipment to the laboratory. This is the same information that is required on the current Federal CCF, but the format has changed. Since there is no requirement for couriers, express carriers, or postal service personnel to document chain of custody for the specimens during transit because they do not have access to the specimen(s) or the Federal CCF, chain of custody annotations resume when the shipping container/package is opened and an individual at the laboratory has access to the specimen bottle(s) and the Federal CCF. We consider this individual to be the accessioner, and he or she is required to document the condition of the primary specimen bottle seal, sign the Federal CCF, print his/her name, the date the specimen was accessioned, and then to whom the specimen was released. The entry for the ''Specimen Bottle(s) Released To'' may include transfer to temporary storage or transfer to another individual. After this transfer, chain of custody of the specimen bottle(s) is documented by the laboratory on an internal chain of custody form.

Step 5(a) is completed by the laboratory to document the test results on the primary specimen. This step has been expanded compared to the current Federal CCF to allow the laboratory to more easily report a specimen for which there may have been an invalid result, the specimen was adulterated or substituted, or rejected for testing. An additional box has been included for 6-acetylmorphine since the required testing for this analyte began December 1, 1998.

Step 5(b) has been added for reporting the split specimen result if the split specimen is tested. This new step gives the secondary laboratory an area to report the result for the split specimen, a line to indicate the laboratory's name and address, a certification statement, and a space for the secondary laboratory's certifying scientist to sign and date the form.

The bottom area of copy 1 is reserved for the tamper-evident specimen bottle seal(s)/label(s). There must be two labels (*i.e.*, one marked with the letter ''A'' to designate the primary specimen and the other marked with the letter ''B'' to designate the split specimen) to accommodate collecting split specimens and each must have the same preprinted specimen identification number that appears at the top of the Federal CCF. Each label must also have a place for the collector to annotate the date of the collection and a place for the donor to initial each label after it is placed on the specimen bottle. If a single specimen collection procedure is used, the second label (*i.e.*, the ''B'' label) is discarded by the collector.

Copy 2

Copy 2 (Laboratory Copy) is similar to Copy 1 except that step 5(b) and the

space where the labels are located has been replaced with step 6 (Medical Officer Review step used to make a determination on the primary specimen) and step 7 (Medical Officer Review step used to make a determination on the split specimen). Step 6 has been changed from the current Federal CCF to allow the MRO to record a ''Refusal To Test'' when the primary specimen is ''Adulterated'' or ''Substituted.'' Step 7 is used to record the determination for the split specimen (if tested).

Copy 3

Copy 3 (Medical Review Officer Copy) is the same format as Copy 2 except that step 5(a) has been replaced with step 5. This step 5 on Copy 3 is completed by the donor after the specimen bottle(s) are sealed, initialed by the donor, and dated. The donor is required to read the certification statement, provide a signature, printed name, date of collection, daytime phone number, evening phone number, and date of birth. This information will be used by the Medical Review Officer to contact the donor for results that require donor contact before making a determination. Additionally, Copy 3 must have a pink border (approximately ¼ inch width) rather than using a pink sheet of paper to allow easy photocopying, if needed.

Copy 4, Copy 5, Copy 6

Copy 4 (Collector Copy), Copy 5 (Donor Copy), and Copy 6 (Employer Copy) are exactly the same as Copy 3 with the following exceptions. Copy 4 must have a yellow border, Copy 5 must have a green border, and Copy 6 must have a blue border. These borders will allow photocopying, if necessary. As with Copy 3, the color borders should be approximately ¼ inch width.

Paperwork Reduction Act Notice

The Paperwork Reduction Act Notice in Appendix A must appear on all Federal government forms that place a reporting burden on gathering information. This notice is the same as that appearing on the current OMB approved Federal CCF; however, SAMHSA is specifically interested in receiving comments for the estimated average times it will take the collector to complete the form, the donor to complete the form, the laboratory to complete the form, and the Medical Review Officer to complete the form. Please assume that completing the form will include reviewing printed information and/or reading certification statements.

Privacy Act Statement

The Privacy Act Statement in Appendix A must appear on the back of the donor copy (Copy 4). It applies to all donors who are Federal employees. It is the same statement that appears on the current Federal CCF.

Tamper-Evident Labels

The size of the two tamper-evident seal(s)/label(s) may vary, but must be placed within the space provided at the bottom of Copy 1. It is also the responsibility of the supplier of the specimen bottle seal(s)/label(s) to ensure that they are tamper-evident. Tamper-evident is defined as a seal/label that cannot be removed from the specimen bottle after 5 minutes contact with the specimen bottle. SAMHSA believes this single requirement is sufficient to ensure that the seal(s)/label(s) provided with the Federal CCF are tamper-evident; however, we invite comments to recommend other specifications/requirements that should be considered.

Availability of CCF

The proposed Federal CCF, once approved by OMB, will be available on the SAMHSA website as an electronic file (using several different formats) that can be downloaded. Photocopies will also be available from the Division of Workplace Programs. SAMHSA believes making the Federal CCF available using this approach will ensure that the form is readily available from different sources.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

BILLING CODE 4162–20–P

Appendix A

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

1234567

SPECIMEN ID NO. 1234567

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No. B. Agency C. MRO Name, Address, Phone and Fax No.

OMB No. 1234-5678

D. Donor SSN or Employee I.D. No. - -

E. Reason for Test: ☐ Random ☐ Pre-employment ☐ Reasonable Suspicion ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify)

F. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify)

G. Collection Business Information:

Collection Business Name | Collection Business Phone No. | Collection Business Fax No.

Address | City | State | Zip

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, enter remarks in Step 4 below

Specimen Collection: ☐ Single ☐ Split ☐ None Provided (Enter Remarks Below) ☐ Observed (Enter Remarks Below)

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 3 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS:

I certify that the specimen given to me by the donor identified in the certification section on Copy 3 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X Signature of Collector | Time of Collection AM PM ▶

(PRINT) Collector's Name (First, MI, Last) | Date (Mo./Day/Yr.) ▶

SPECIMEN BOTTLE(S) RELEASED TO:

Name of Delivery Service Transfering Specimen to Lab

RECEIVED AT LABORATORY

X Signature of Accessioner ▶

(PRINT) Accessioner's Name (First, MI, Last) | Date (Mo./Day/Yr.) ▶

Primary Specimen Bottle Seal Intact

☐ Yes ☐ No, enter remarks below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5a: PRIMARY SPECIMEN TEST RESULTS - COMPLETED BY PRIMARY LABORATORY

☐ NEGATIVE ☐ POSITIVE for: ☐ Marijuana Metabolite ☐ Cocaine Metabolite ☐ PCP ☐ Codeine ☐ Morphine ☐ 6-Acetylmorphine ☐ Amphetamine ☐ Methamphetamine ☐ ADULTERATED ☐ SUBSTITUTED ☐ INVALID RESULT

☐ REJECTED FOR TESTING

REMARKS

TEST LAB (if different from above)

I certify that the specimen identified on this form was examined upon receipt, handled using chain of custody procedures, analyzed, and reported in accordance with applicable Federal requirements.

X Signature of Certifying Scientist | (PRINT) Certifying Scientist's Name (First, MI, Last) | Date (Mo./Day/Yr.)

STEP 5b: SPLIT SPECIMEN TEST RESULTS - (IF TESTED) COMPLETED BY SECONDARY LABORATORY

Laboratory Name

Laboratory Address

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON

I certify that the split specimen identified on this form was examined upon receipt, handled using chain of custody procedures, analyzed, and reported in accordance with applicable Federal requirements.

X Signature of Certifying Scientist | (PRINT) Certifying Scientist's Name (First, MI, Last) | Date (Mo./Day/Yr.)

PEEL

1234567 A

SPECIMEN ID NO.

PLACE OVER CAP

1234567

SPECIMEN BOTTLE SEAL

Date (Mo. Day Yr.)

Donor's Initials

PEEL

1234567 B (SPLIT)

SPECIMEN ID NO.

PLACE OVER CAP

1234567

SPECIMEN BOTTLE SEAL

Date (Mo. Day Yr.)

Donor's Initials

PRESS HARD - YOU ARE MAKING MULTIPLE COPIES

COPY 1 - LABORATORY COPY

Back of Copy 1

Paperwork Reduction Act Notice (as required by 5 CFR 1320.21)

Public reporting burden for this collection of information, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated for each respondent to average: 5 minutes/donor; 4 minutes/collector; 3 minutes/laboratory; and 3 minutes/Medical Review Officer. Federal employees may send comments regarding these burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to the SAMHSA Reports Clearance Officer, Paperwork Reduction Project (0930–0158), Room 16–106, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is 0930–0158.

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

SPECIMEN ID NO. 1234567

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No. B. Agency C. MRO Name, Address, Phone and Fax No.

OMB No. 1234-5678

D. Donor SSN or Employee I.D. No. - -

E. Reason for Test: ☐ Random ☐ Pre-employment ☐ Reasonable Suspicion ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

F. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

G. Collection Business Information:

Collection Business Name | Collection Business Phone No. | Collection Business Fax No.

Address | City | State | Zip

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, enter remarks in Step 4 below

Specimen Collection: ☐ Single ☐ Split ☐ None Provided (Enter Remarks Below) ☐ Observed (Enter Remarks Below)

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 3 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS: _____

I certify that the specimen given to me by the donor identified in the certification section on Copy 3 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector

Time of Collection AM PM ▶

(PRINT) Collector's Name (First, MI, Last)

Date (Mo./Day/Yr.) / / ▶

SPECIMEN BOTTLE(S) RELEASED TO:

Name of Delivery Service Transfering Specimen to Lab

RECEIVED AT LABORATORY

X _____ Signature of Accessioner ▶

(PRINT) Accessioner's Name (First, MI, Last)

Date (Mo./Day/Yr.) / / ▶

Primary Specimen Bottle Seal Intact

☐ Yes ☐ No, enter remarks below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5a: PRIMARY SPECIMEN TEST RESULTS - COMPLETED BY PRIMARY LABORATORY

☐ NEGATIVE ☐ POSITIVE for: ☐ Marijuana Metabolite ☐ Cocaine Metabolite ☐ PCP ☐ Codeine ☐ Morphine ☐ 6-Acetylmorphine ☐ Amphetamine ☐ Methamphetamine ☐ ADULTERATED ☐ SUBSTITUTED ☐ INVALID RESULT

☐ REJECTED FOR TESTING

REMARKS _____

TEST LAB (if different from above) _____

I certify that the specimen identified on this form was examined upon receipt, handled using chain of custody procedures, analyzed, and reported in accordance with applicable Federal requirements.

X _____ Signature of Certifying Scientist (PRINT) Certifying Scientist's Name (First, MI, Last) Date (Mo./Day/Yr.) / /

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ Negative ☐ Positive ☐ Test Cancelled ☐ Refusal To Test because: ☐ Adulterated ☐ Substituted

REMARKS _____

X _____ Signature of Medical Review Officer (PRINT) Medical Review Officer's Name (First, MI, Last) Date (Mo./Day/Yr.) / /

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X _____ Signature of Medical Review Officer (PRINT) Medical Review Officer's Name (First, MI, Last) Date (Mo./Day/Yr.) / /

COPY 2 - LABORATORY COPY

Back of Copy 2

Paperwork Reduction Act Notice (as required by 5 CFR 1320.21)

Public reporting burden for this collection of information, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated for each respondent to average: 5 minutes/donor; 4 minutes/collector; 3 minutes/laboratory; and 3 minutes/Medical Review Officer. Federal employees may send comments regarding these burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to the SAMHSA Reports Clearance Officer, Paperwork Reduction Project (0930–0158), Room 16–106, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is 0930–0158.

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

SPECIMEN ID NO. 1234567

OMB No. 1234-5678

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No. B. Agency C. MRO Name, Address, Phone and Fax No.

D. Donor SSN or Employee I.D. No. - -

E. Reason for Test: ☐ Random ☐ Pre-employment ☐ Reasonable Suspicion ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify)_____

F. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify)_____

G. Collection Business Information:

Collection Business Name | Collection Business Phone No. | Collection Business Fax No.

Address | City | State | Zip

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, enter remarks in Step 4 below

Specimen Collection: ☐ Single ☐ Split ☐ None Provided (Enter Remarks Below) ☐ Observed (Enter Remarks Below)

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 3 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS: _____

I certify that the specimen given to me by the donor identified in the certification section on Copy 3 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector

_____ AM PM Time of Collection ▶

_____ (PRINT) Collector's Name (First, MI, Last)

____ / ____ / ____ Date (Mo./Day/Yr.) ▶

SPECIMEN BOTTLE(S) RELEASED TO:

_____ Name of Delivery Service Transfering Specimen to Lab

RECEIVED AT LABORATORY

X _____ Signature of Accessioner ▶

_____ (PRINT) Accessioner's Name (First, MI, Last)

____ / ____ / ____ Date (Mo./Day/Yr.) ▶

Primary Specimen Bottle Seal Intact

☐ Yes ☐ No, enter remarks below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X _____ Signature of Donor

_____ (PRINT) Donor's Name (First, MI, Last)

____ / ____ / ____ Date (Mo. / Day / Yr.)

Daytime Phone No. ( ) _____ Evening Phone No. ( ) _____ Date of Birth ____ / ____ / ____ (Mo. Day Yr.)

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 4). —DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 4 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ Negative ☐ Positive ☐ Test Cancelled ☐ Refusal To Test because: ☐ Adulterated ☐ Substituted

REMARKS _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

____ / ____ / ____ Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

____ / ____ / ____ Date (Mo./Day/Yr.)

COPY 3 - MEDICAL REVIEW OFFICER COPY

Back of Copy 3

Paperwork Reduction Act Notice (as required by 5 CFR 1320.21)

Public reporting burden for this collection of information, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated for each respondent to average: 5 minutes/donor; 4 minutes/collector; 3 minutes/laboratory; and 3 minutes/Medical Review Officer. Federal employees may send comments regarding these burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to the SAMHSA Reports Clearance Officer, Paperwork Reduction Project (0930–0158), Room 16–106, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is 0930–0158.

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

SPECIMEN ID NO. 1234567

OMB No. 1234-5678

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No. B. Agency C. MRO Name, Address, Phone and Fax No.

D. Donor SSN or Employee I.D. No. - -

E. Reason for Test: ☐ Random ☐ Pre-employment ☐ Reasonable Suspicion ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify)_____

F. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify)_____

G. Collection Business Information:

Collection Business Name | Collection Business Phone No. | Collection Business Fax No.

Address | City | State | Zip

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, enter remarks in Step 4 below

Specimen Collection: ☐ Single ☐ Split ☐ None Provided (Enter Remarks Below) ☐ Observed (Enter Remarks Below)

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 3 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS: _____

I certify that the specimen given to me by the donor identified in the certification section on Copy 3 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector

_____ AM PM Time of Collection ▶

_____ (PRINT) Collector's Name (First, MI, Last)

____ / ____ / ____ Date (Mo./Day/Yr.) ▶

SPECIMEN BOTTLE(S) RELEASED TO:

_____ Name of Delivery Service Transfering Specimen to Lab

RECEIVED AT LABORATORY

X _____ Signature of Accessioner ▶

_____ (PRINT) Accessioner's Name (First, MI, Last)

____ / ____ / ____ Date (Mo./Day/Yr.) ▶

Primary Specimen Bottle Seal Intact

☐ Yes ☐ No, enter remarks below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X _____ Signature of Donor

_____ (PRINT) Donor's Name (First, MI, Last)

____ / ____ / ____ Date (Mo. / Day / Yr.)

Daytime Phone No. ( ) _____ Evening Phone No. ( ) _____ Date of Birth ____ / ____ / ____ (Mo. Day Yr.)

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 4). —DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 4 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ Negative ☐ Positive ☐ Test Cancelled ☐ Refusal To Test because: ☐ Adulterated ☐ Substituted

REMARKS _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

____ / ____ / ____ Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X _____ Signature of Medical Review Officer

_____ (PRINT) Medical Review Officer's Name (First, MI, Last)

____ / ____ / ____ Date (Mo./Day/Yr.)

COPY 4 - DONOR COPY

Back of Copy 4

Paperwork Reduction Act Notice (as required by 5 CFR 1320.21)

Public reporting burden for this collection of information, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated for each respondent to average: 5 minutes/donor; 4 minutes/collector; 3 minutes/laboratory; and 3 minutes/Medical Review Officer. Federal employees may send comments regarding these burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to the SAMHSA Reports Clearance Officer, Paperwork Reduction Project (0930–0158), Room 16–106, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is 0930–0158.

Privacy Act Statement (For Federal Employees Only)

Submission of the information on the attached form is voluntary. However, incomplete submission of the information, refusal to provide a urine specimen, or substitution or adulteration of a specimen may result in delay or denial of your application for employment/appointment or may result in your removal from Federal service or other disciplinary action.

The authority for obtaining the urine specimen and identifying information contained herein is Executive Order 12564 (''Drug-Free Federal Workplace''), 5 U.S. C. § 3301 (2), 5 U.S.C. § 7301 and Section 503 of Public Law 100–71, 5 U.S.C. § 7301 note. Under provisions of Executive Order 12564 and U.S.C. 7301, test results may only be disclosed to agency officials on a need-to-know basis. This may include the agency Medical Review Officer, the administrator of the Employee Assistance Program, and a supervisor with authority to take adverse personnel action. This information may also be disclosed to a court where necessary to defend against a challenge to an adverse personnel action.

Submission of your SSN is not required by law and is voluntary. Your refusal to furnish your number will not result in the denial of any right, benefit, or privilege provided by law. Your SSN is solicited, pursuant to Executive Order 9397, for purposes of associating information in agency files relating to you and for purposes of identifying the specimen provided for urinalysis testing for illegal drugs. If you refuse to indicate your SSN, a substitute number or other identifier will be assigned, as required, to process the specimen.

In the event laboratory analysis determines the presence of one or more illegal drugs in the specimen you provide, you will be contacted by an agency Medical Review Officer (MRO). The MRO will determine whether there is a legitimate medical explanation for the drug(s) identified by urinalysis.

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

SPECIMEN ID NO. 1234567

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No. B. Agency C. MRO Name, Address, Phone and Fax No.

OMB No. 1234-5678

D. Donor SSN or Employee I.D. No. - -

E. Reason for Test: ☐ Random ☐ Pre-employment ☐ Reasonable Suspicion ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify)_____

F. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify)_____

G. Collection Business Information:

Collection Business Name | Collection Business Phone No. | Collection Business Fax No.

Address | City | State | Zip

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, enter remarks in Step 4 below

Specimen Collection: ☐ Single ☐ Split ☐ None Provided (Enter Remarks Below) ☐ Observed (Enter Remarks Below)

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 3 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS: _____

I certify that the specimen given to me by the donor identified in the certification section on Copy 3 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector | ____ AM PM Time of Collection ▶

_____ (PRINT) Collector's Name (First, MI, Last) | __/__/__ Date (Mo./Day/Yr.) ▶

SPECIMEN BOTTLE(S) RELEASED TO:

Name of Delivery Service Transfering Specimen to Lab

RECEIVED AT LABORATORY

X _____ Signature of Accessioner ▶

_____ (PRINT) Accessioner's Name (First, MI, Last) | __/__/__ Date (Mo./Day/Yr.) ▶

Primary Specimen Bottle Seal Intact

☐ Yes ☐ No, enter remarks below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X _____ Signature of Donor | _____ (PRINT) Donor's Name (First, MI, Last) | __/__/__ Date (Mo. / Day / Yr.)

Daytime Phone No. (____) _____ Evening Phone No. (____) _____ Date of Birth __/__/__ Mo. Day Yr.

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 4). —DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 4 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ Negative ☐ Positive ☐ Test Cancelled ☐ Refusal To Test because: ☐ Adulterated ☐ Substituted

REMARKS _____

X _____ Signature of Medical Review Officer | _____ (PRINT) Medical Review Officer's Name (First, MI, Last) | __/__/__ Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X _____ Signature of Medical Review Officer | _____ (PRINT) Medical Review Officer's Name (First, MI, Last) | __/__/__ Date (Mo./Day/Yr.)

COPY 5 - COLLECTOR COPY

Back of Copy 5

Paperwork Reduction Act Notice (as required by 5 CFR 1320.21)

Public reporting burden for this collection of information, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated for each respondent to average: 5 minutes/donor; 4 minutes/collector; 3 minutes/laboratory; and 3 minutes/Medical Review Officer. Federal employees may send comments regarding these burden estimates, or any other aspect of this collection of information, including suggestions for reducing the burden, to the SAMHSA Reports Clearance Officer, Paperwork Reduction Project (0930–0158), Room 16–106, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is 0930–0158.

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

SPECIMEN ID NO. 1234567

OMB No. 1234-5678

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A. Employer Name, Address, I.D. No. B. Agency C. MRO Name, Address, Phone and Fax No.

D. Donor SSN or Employee I.D. No. - -

E. Reason for Test: ☐ Random ☐ Pre-employment ☐ Reasonable Suspicion ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify) _____

F. Drug Tests to be Performed: ☐ THC, COC, PCP, OPI, AMP ☐ THC & COC Only ☐ Other (specify) _____

G. Collection Business Information:

Collection Business Name | Collection Business Phone No. | Collection Business Fax No.

Address | City | State | Zip

STEP 2: COMPLETED BY COLLECTOR

Read specimen temperature within 4 minutes. Is temperature between 90° and 100° F? ☐ Yes ☐ No, enter remarks in Step 4 below	Specimen Collection: ☐ Single ☐ Split ☐ None Provided (Enter Remarks Below)	☐ Observed (Enter Remarks Below)

STEP 3: Collector affixes bottle seal(s) to bottle(s). Collector dates seal(s). Donor initials seal(s). Donor completes STEP 5 on Copy 3 (MRO Copy)

STEP 4: CHAIN OF CUSTODY - INITIATED BY COLLECTOR AND COMPLETED BY LABORATORY

REMARKS: _____

I certify that the specimen given to me by the donor identified in the certification section on Copy 3 of this form was collected, labeled, sealed and released to the Delivery Service noted in accordance with applicable Federal requirements.

X _____ Signature of Collector

_____ Time of Collection AM PM ▶

_____ (PRINT) Collector's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

SPECIMEN BOTTLE(S) RELEASED TO:

_____ Name of Delivery Service Transfering Specimen to Lab

RECEIVED AT LABORATORY

X _____ Signature of Accessioner ▶

_____ (PRINT) Accessioner's Name (First, MI, Last)

_____ Date (Mo./Day/Yr.) ▶

Primary Specimen Bottle Seal Intact

☐ Yes ☐ No, enter remarks below

SPECIMEN BOTTLE(S) RELEASED TO:

STEP 5: COMPLETED BY DONOR

I certify that I provided my urine specimen to the collector; that I have not adulterated it in any manner; each specimen bottle used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle is correct.

X _____ Signature of Donor _____ (PRINT) Donor's Name (First, MI, Last) _____ Date (Mo. / Day / Yr.)

Daytime Phone No. ( ) _____ Evening Phone No. ( ) _____ Date of Birth ___ / ___ / ___ (Mo. Day Yr.)

Should the results of the laboratory tests for the specimen identified by this form be confirmed positive, the Medical Review Officer will contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 4). —DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 4 WITH YOU.

STEP 6: COMPLETED BY MEDICAL REVIEW OFFICER - PRIMARY SPECIMEN

In accordance with applicable Federal requirements, my determination/verification is:

☐ Negative ☐ Positive ☐ Test Cancelled ☐ Refusal To Test because: ☐ Adulterated ☐ Substituted

REMARKS _____

X _____ Signature of Medical Review Officer _____ (PRINT) Medical Review Officer's Name (First, MI, Last) _____ Date (Mo./Day/Yr.)

STEP 7: COMPLETED BY MEDICAL REVIEW OFFICER - SPLIT SPECIMEN

In accordance with applicable Federal requirements, my determination/verification for the split specimen (if tested) is:

☐ RECONFIRMED ☐ FAILED TO RECONFIRM - REASON _____

X _____ Signature of Medical Review Officer _____ (PRINT) Medical Review Officer's Name (First, MI, Last) _____ Date (Mo./Day/Yr.)

COPY 6 - EMPLOYER COPY

BILLING CODE 4162–20–C

Back of Copy 6

Instructions for Completing the Federal Drug Testing Custody and Control Form

Note: Use ballpoint pen, press hard, and check *all* copies for legibility.

Procedure:

1. Collector ensures that the name and address of the drug testing laboratory appear on the top of the form and that the preprinted Specimen I.D. number on the top of the form is identical to the preprinted Specimen I.D. number appearing on the specimen bottle labels/seals.

2. Collector ensures the required information is provided in STEP 1 on the CCF.

Note: If the donor refuses to provide his/her SSN or Employee I.D. number, the collector must provide an appropriate comment on the REMARKS line in STEP 4.

3. Collector gives the collection container/specimen bottle to the donor for providing a specimen.

4. Upon receiving the specimen from the donor, the collector checks the temperature of specimen within 4 minutes.

5. Collector marks appropriate temperature box (if outside the temperature range, provides a remark in STEP 4).

6. Collector marks the appropriate box to indicate whether it is a single or split specimen collection. If no specimen is collected, the box is checked and a remark is provided in STEP 4. If it is an observed collection, the box is checked and a remark is provided in STEP 4.

Note: If no specimen is collected, Copies 1 and 2 are discarded, but the remaining copies are distributed as indicated below.

7. Collector secures cap(s) on specimen bottle(s) and affixes seal(s).

8. Collector dates the specimen bottle label(s).

9. Donor initials the specimen bottle label(s) after the label(s) have been placed on the specimen bottle(s).

10. Collector turns to Copy 3 (MRO Copy—pink border) and instructs the donor to read the certification statement in STEP 5 (Copy 3) and to sign, print name, date, provide phone numbers, and date of birth after reading the certification statement.

Note: If the donor refuses to sign the certification statement, the collector must provide an appropriate comment on the REMARKS line in STEP 4 on Copy 1.

11. Collector completes STEP 4 (*i.e.*, provides signature, printed name, date, time of collection, and specific name of delivery service).

Note: Collector records any comments concerning the collection on the REMARKS line in STEP 4.

12. Collector immediately places and seals the specimen bottle(s) and Copy 1 and Copy 2 of the CCF in an appropriate leak-proof plastic bag.

Note: If the plastic bag containing the specimen bottle(s) is not immediately placed in a shipping container and sealed because several collections will be placed in the same shipping container, the Collector must maintain visual control of the specimens or place them in secured temporary storage.

13. Collector sends Copy 3 to the MRO, gives Copy 4 to the donor, retains Copy 5, and sends Copy 6 to the Employer.

[FR Doc. 99–29609 Filed 11–12–99; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–53]

Submission for OMB Review: Builder's Certification of Plans, Specifications, and Site

AGENCY: Office of the Chief Information Officer, 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 comments on the subject proposal.

DATES: *Comments Due Date:* December 15, 1999. Comments should refer to the proposal by name (2502–0496) and/or OMB Control Number.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal, and should be sent to: Joseph F. Lackey, Jr. HUD Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503 (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–2374 (This is not a toll-free number) or e-mail to Wayne__Eddins@HUD.gov. Copies of the 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.

This Notice also lists the following information:

Title of Proposal: Builder's Certification of Plans, Specifications, and Site.

OMB Approval Number: 2502–0496.

Form Number: HUD–92541.

Description of the need for the Information and its proposed use: HUD requires the builder to complete the certification (Form HUD–92541) that notes any adverse site and location factors on the property, including flood plains, so that HUD does not insure a mortgage on property that poses a risk to health or safety of the occupant.

Respondents: Business or Other-For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	800		82		.25		16,400

Total Estimated Burden Hours: 16,400.

Status: Revision and Extension.

Contact: Mark W. Holman, HUD, (202) 708–2121.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 8, 1999.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 99–29676 Filed 11–12–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4550–D–01]

Order of Succession

AGENCY: Office of Administration, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Deputy Secretary for the Department of Housing and Urban Development designates the Order of Succession for the Assistant Secretary for Administration. This Order of Succession supersedes the Order of Succession for the Assistant Secretary for Administration, published at 55 FR 46875 (November 7, 1990).

EFFECTIVE DATE: November 5, 1999.

FOR FURTHER INFORMATION CONTACT: John P. Opitz, Assistant General Counsel for Procurement and Administrative Law, Department of Housing and Urban Development, Room 10180, 451 7th Street, SW, Washington, DC 20410, (202) 708–0622. (This is not a toll-free number.) This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339 (toll-free).

SUPPLEMENTARY INFORMATION: The Deputy Secretary for the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of the Assistant Secretary when, by reason of absence, disability, or vacancy in office, the Assistant Secretary is not available to exercise the powers or perform the duties of the office. *This Order of Succession is subject to the provisions of the Vacancy Reform Act of 1998, 5 U.S.C. 3345–3349d.*

Accordingly, the Deputy Secretary designates the following Order of Succession:

Section A. Order of Succession

During any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Administration is not available to exercise the powers or perform the duties of the Office of Assistant Secretary for Administration, the following officials within the Office of Administration are hereby designated to exercise the powers and perform the duties of the Office:

(1) General Deputy Assistant Secretary for Administration;
(2) Associate General Deputy Assistant Secretary for Administration;
(3) Deputy Assistant Secretary for Operations;
(4) Associate Deputy Assistant Secretary for Operations;
(5) Deputy Assistant Secretary for Technical Services;
(6) Associate Deputy Assistant Secretary for Technical Services
(7) Director, Office of Human Resources.

These officials shall perform the functions and duties of the Office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Revoked

This Order of Succession revokes the Order of Succession for the Assistant Secretary for Administration, published at 55 FR 46875 (November 7, 1990).

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. Sec. 3535(d).

Dated: November 5, 1999.

Saul N. Ramirez, Jr.,

Deputy Secretary, Department of Housing and Urban Development.

[FR Doc. 99–29677 Filed 11–12–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability, Final restoration Plan

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and wildlife Service (Service), on behalf of the Department of the Interior (DOI), as a natural resource trustee, announces the release of the final Restoration Plan (Final Plan) for the Hi View Terrace Superfund Site. The Final Plan describes the DOI's plan to restore natural resources injured as a result of remedial actions undertaken to address the release of hazardous substances from the Hi View Terrace Superfund Site.

The Hi View Terrace Superfund Site (Site) consists of lots at 100, 110, and 116 Hi View Terrace in West Seneca, New York, portions of which were filled with cyanide-contaminated material. A removal action was subsequently undertaken in 1988 and 1989. A total of 5,600 tons of soil and debris were removed, and the area backfilled with clean material. About 0.5 acre of wetland at the Site was lost due to the remedial work, reducing the quantity and quality of wetlands available for wildlife. As compensation for this loss we reached a settlement of $25,000 with the Responsible Party.

The Final Plan is being released in accordance with the Natural Resource Damage Assessment Regulations found at Title 43 of the Code of Federal Regulation Part 11. A Draft Restoration Plan (Draft Plan) was issued by the DOI on June 15, 1999, requesting public comment. A Notice of Availability of the Draft Plan was published in the **Federal Register** on June 11, 1999. The Draft Plan described several habitat restoration and protection alternatives identified by the DOI, and evaluated each of the possible alternatives based on all relevant considerations. The DOI's Preferred Alternative identified in the Draft Plan entailed the use of $25,000 by the Town of West Seneca to purchase a 17-acre parcel of land along Cazenovia Creek to create the Cazenovia Creek Nature Preserve. Based on an evaluation of the potential impacts of the various alternatives in the Draft Plan, and a consideration of public comments received, the DOI has selected the project identified in the Draft Plan as the Preferred Alternative, the Cazenovia Creek Nature Preserve, for implementation. Details regarding this project are contained in the Final Plan.

The Final Revised Procedures for the Service for implementing the National Environmental Policy Act, published in the **Federal Register** on January 16, 1997, provide a categorical exclusion for natural resource damage assessment restoration plans prepared under CERCLA when only minor or negligible change in the use of the affected areas in planned. The DOI has determined that the Preferred Alternative will result in only a minor change in the use of the affected area. Accordingly this Restoration Plan is for a categorical exclusion under NEPA. The Final Plan includes an Environmental Action Statement documenting this determination.

SUPPLEMENTARY INFORMATION: Requests for copies of the Final Plan and Environmental Action Statement, or for any additional information, should be directed to Kathryn Jahn, Environmental Contaminants Branch, U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, New York 13045, telephone (607) 753–9334.

Author: The primary author of this notice is Ms. Kathryn Jahn, New York Field Office, U.S. Fish and Wildlife Service, 3817 Luker Road, Cortland, NY 13045.

Authority: The authority for this action is the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C.

Dated: October 28, 1999.

M.A. Parker,

Acting Regional Director, Region 5, U.S. Fish and Wildlife Service.

[FR Doc. 99–28987 Filed 11–12–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[MT–060–1220–DE, 1617P]

Notice of Availability of the Draft Off-Highway Vehicle Environmental Impact Statement and Plan Amendment

AGENCY: Bureau of Land Management, Interior and Forest Service, Agriculture.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) and Forest Service (FS) have prepared a Draft Off-Highway Vehicle Environmental Impact Statement (EIS) and Plan Amendment. The Draft EIS/Plan Amendment describes the analysis completed on the proposed management changes in off-highway vehicle (OHV) use on public lands administered by the BLM and FS, Northern Region, in Montana, North Dakota, and portions of South Dakota. Five alternatives, including a No Action Alternative, were developed to meet the purpose and need of the project and respond to significant issues. The purpose and need are to address the impacts of OHV travel on open areas that are currently available to motorized cross-country travel. The No Action Alternative would maintain current management. Areas currently open yearlong or seasonally to cross-country travel would remain open. Alternatives 1 and 2 would restrict motorized cross-country travel yearlong. Alternative 3 would restrict motorized cross-country travel yearlong in North Dakota, most of Montana, and portions of South Dakota. Alternative 4 would limit motorized cross-country travel seasonally.

DATES: The comment period on the Draft EIS/Plan Amendment will end 90 days from the date the Environmental Agency publishes the notice of availability in the **Federal Register**. The expected end of the comment period is February 24, 2000. Open houses on the Draft EIS/Plan Amendment will be held in communities in Montana, North Dakota, and South Dakota during the review period. The locations for the open houses are listed below but also look for an article in your local paper because locations, dates and/or time may change.

Date	Location	Time	Place
November 30	Billings, MT	4:00–8:00 p.m.	BLM Office, 5001 Southgate Drive.
November 30	Miles City, MT	5:00–7:00 p.m.	BLM Office, 111 Garryowen Road.
December 1	Bismarck, ND	4:00–8:00 p.m.	U.S. Forest Service, 240 West Century.
December 1	Red Lodge, MT	4:00–8:00 p.m.	U.S. Forest Service.
December 1	Colstrip, MT	5:00–7:00 p.m.	Bicentennial Library, 415 Willow Avenue.
December 2	Watford City, ND	4:00–8:00 p.m.	U.S. Forest Service, 1.5 miles south of Watford City.
December 2	Lincoln, MT	4:00–8:00 p.m.	Lincoln Community Hall.
December 2	Glendive, MT	5:00–7:00 p.m.	Glendive Medical Center, Carney Conference Room #2.
December 2	Great Falls, MT	4:00–7:00 p.m.	BLM/FS Office, 1101 15th Street North.
December 3	Rapid City, SD	3:00–7:00 p.m.	West River Research & Ag. Crt., 1905 Plaza Blvd.
December 6	Townsend, MT	4:00–8:00 p.m.	Townsend Library.
December 6	Dickinson, ND	4:00–8:00 p.m.	BLM Office, 2933 Third Avenue West.
December 6	Havre, MT	4:00–7:00 p.m.	BLM Office.
December 7	Missoula, MT	4:00–8:00 p.m.	Boone and Crocket Club.
December 7	Malta, MT	4:00–7:00 p.m.	BLM Office.
December 7	Broadus, MT	5:00–7:00 p.m.	Powder River County Courthouse Election Rm.
December 7	Bowman, ND	4:00–8:00 p.m.	Long Pines Steak House, 13 1st Ave. SE.
December 7	Hamilton, MT	4:00–8:00 p.m.	Senior Center, 820 North 4th.
December 8	Helena, MT	4:00–8:00 p.m.	U.S. Forest Service, 2880 Skyway Drive.
December 8	Glasgow, MT	4:00–7:00 p.m.	BLM Office.
December 8	Bozeman, MT	4:00–8:00 p.m.	Gallatin Co Courthouse, 311 West Main.
December 9	Dillon, MT	4:00–8:00 p.m.	U.S. Forest Service, 420 Barrett Street.
December 9	Butte, MT	4:00–8:00 p.m.	BLM Office, 106 North Parkmont.
December 14	Libby, MT	4:00–9:00 p.m.	Libby City Hall, Ponderosa Room.

Date	Location	Time	Place
December 14	Browning, MT	3:30–7:00 p.m.	Tribal Offices.
December 14	Lewistown, MT	4:00–7:00 p.m.	BLM Office, Airport Road.
December 15	Choteau, MT	2:00–7:00 p.m.	Stage Stop Inn.
December 15	Trout Creek, MT	4:00–9:00 p.m.	U.S. Forest Service.
December 16	Eureka, MT	7:00–10:00 p.m.	Lincoln Co. Electric.
January 12	Kalispell, MT	5:00–8:00 p.m.	Outlaw Inn.
January 18	Lemmon, SD	2:00–6:00 p.m.	Lemmon Elementary School.
January 19	Buffalo, SD	2:00–6:00 p.m.	Harding County Jury/Court Room.
January 20	Pierre, SD	2:00–6:00 p.m.	Governors Inn.
January 21	Belle Fourche, SD	2:00–6:00 p.m.	BLM Office.
January 24	Ekalaka, MT	2:00–6:00 p.m.	Carter Country Jury/Court Room.

ADDRESSES: Address all comments to OHV Plan Amendment, Lewistown Field Office, P.O. Box 1160, Lewistown, MT 59457–1160.

Comments, including names and street addresses of respondents, will be available for public review at the above Lewistown address during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Jerry Majerus, 406–538–1924 or Dick Kramer, 406–329–1008.

SUPPLEMENTARY INFORMATION: This Draft EIS/Plan Amendment discloses the potential environmental consequences of managing cross-country off-highway vehicle (OHV) use on public lands administered by the BLM and FS, Northern Region, in Montana, North Dakota, and portions of South Dakota (excluding the Black Hills National Forest, Buffalo Gap Grasslands and the Fort Pierre Grasslands). The agencies recognize that many recreation users do not differentiate between BLM and FS lands. The agencies feel it is better customer service to have consistent policies across agency boundaries; therefore, the plan amendment will be a joint BLM and FS proposal. The BLM and FS are joint lead agencies responsible for preparation of the EIS/plan amendment.

The increased popularity and widespread use of OHVs on public lands in the 1960s and early 1970s prompted the development of a unified federal policy for such use. Executive Order 11644 was issued in 1972 and Executive Order 11989 was issued in 1977. They provided direction for federal agencies to establish policies and provide for procedures to control and direct the use of OHVs on public lands so as to (1) protect the resources of those lands, (2) promote the safety of all users of those lands, and (3) minimize conflicts among the various uses on those lands. The BLM and FS have developed regulations in response to the Executive Orders (43 CFR 8342 and 36 CFR 219 and 295). Under those regulations, OHV use can be restricted or prohibited to minimize (1) damage to the soil, watershed, vegetation, or other resources of the public lands; (2) harm to wildlife or wildlife habitats; and (3) conflict between the use of OHVs and other types of recreation.

The BLM and FS recognize in their respective resource management plans and forest plans, policy, and manual direction, that off-highway vehicle use is a valid recreational activity when properly managed. Managing this use along with other recreation uses and the need to protect resource values has become increasingly more difficult with increasing public demands and decreasing budgets.

The purpose of this EIS/plan amendment is to address the impacts of wheeled (motorcycles, four-wheel drive vehicles, sport utility vehicles, all-terrain vehicles, etc.) off-highway vehicle travel on open areas that are currently available to motorized cross-country travel. It will amend forest plan and resource management plan OHV area designations to preserve future options for site-specific travel planning. This would provide timely interim direction that would prevent further resource damage, user conflicts, and related problems, including new user-created roads, associated with motorized cross-country travel until subsequent site-specific travel planning is complete. Site-specific travel planning, or activity planning, will address OHV use on specific roads and trails. This amendment would not change the current limited/restricted yearlong or closed designations, or designated intensive off-road vehicle use areas.

About 16 million acres of public land are currently available to motorized cross-country travel in the analysis area, either yearlong or seasonally, which has the potential to: spread noxious weeds, cause erosion, damage cultural sites, create user conflicts, and disrupt wildlife and damage wildlife habitat.

Problems do not occur equally throughout the analysis area. Motorized cross-country travel is generally limited by current technology to areas that are less steep and have more open vegetative communities. Random use in open areas has created trail networks throughout the analysis area. Some of this use has occurred in riparian areas and on highly erodible slopes.

Monitoring of OHV travel at FS and BLM offices indicates that problems exist where unrestricted motorized cross-country travel is allowed. Many units have completed or begun site-specific travel planning. Most notable efforts are the Elkhorn Mountains near Helena, Montana, and the Whitetail-Pipestone area near Butte, Montana.

Members of the public and the Montana Department of Fish, Wildlife and Parks Commission have shared their concerns about unrestricted OHV travel on public lands. The four BLM Resource Advisory Councils (citizen groups that represent a balance of commodity, conservation, and other public interests) in Montana, North Dakota, and portions of South Dakota, expressed serious concerns about allowing continued, unrestricted, motorized cross-country travel on public lands.

The BLM and FS are concerned that continuing unrestricted use could potentially increase these problems. Areas that are open yearlong or seasonally to motorized cross-country travel in current forest plans and resource management plans will require a plan amendment to address these issues. This proposal to manage the

cross-country aspect of motorized vehicle use is part of our responsibility as public land managers to balance human use with the need to protect natural resources.

Authority: Sec. 202, Pub. L. 94–579, 90 Stat. 2747 (43 U.S.C. 1712), Sec. 6, Pub. L. 94–588, 90 Stat. 2949 (16 U.S.C. 1604).

Dated: November 5, 1999.

Larry E. Hamilton,

State Director, Bureau of Land Management.

Kathleen A. McAllister,

Deputy Regional Forester, U.S. Forest Service.

[FR Doc. 99–29542 Filed 11–12–99; 8:45 am]

BILLING CODES 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930, N–65738]

Notice of Realty Action: Modified Competitive Sale of Public Lands N–65738

AGENCY: Bureau of Land Management, DOI.

ACTION: Modified competitive sale of public lands.

SUMMARY: The following described public land in Moapa, Clark County, Nevada has been examined and found suitable for disposal utilizing modified competitive sale procedures, at not less than the fair market value (FMV). Authority for the sale is Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) (FLPMA).

Mount Diablo Meridian, Nevada

T. 15 S., R. 66 E.
Sec. 7, E½ SW¼,SE¼

Containing 240 acres, more or less. This FMV is $228,000.00. The land described is hereby segregated from appropriation under public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first.

The lands will be offered for sale by sealed bid only, bids to be opened at 10:00 am PST, on January 14, 2000, at the Bureau of Land Management, 4765 Vegas Drive, Las Vegas, Nevada 89108. This sale will be by modified competitive procedures. Nevada Power Company will be given the opportunity to meet the highest bid received.

All sealed bids must be submitted to the Bureau of Land Management's Las Vegas Field Office at 4765 Vegas Drive, Las Vegas, Nevada 89108, no later than 4:00 pm PST, January 13, 2000. Bid envelopes must be marked on the left front corner with the serial number, N–65738, and sale date. Bids must be for not less than the appraised FMV specified on this notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft, or cashier's check made payable to the Department of the Interior, BLM for not less than 10 percent of the amount bid.

The terms and conditions applicable to the sale are:

1. Minerals rights reserved to the United States are oil, gas, sodium and potassium. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this office.

2. A right-of-way is reserved for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (26 Stat. 291; 43 U.S.C. 945).

3. The patent will be subject to all valid existing rights.

N–4790; a right-of-way for a 500kV transmission line to the Bureau of Reclamation, Los Angeles City, Nevada Power Company.

N–10683; a right-of-way for a 500kV transmission line to Intermountain Power Project.

N–39815; a right-of-way for a 345kV transmission line to Nevada Power Company.

N–42581; a right-of-way for an underground natural gas pipeline to Kern River Gas.

N–62093; a right-of-way for an underground communication line to Touch America Inc.

Federal law requires that all bidders must be U.S. citizens 18 years old or older, or in the case of corporations, be subject to the laws or any State of the U.S. Proof of these requirements must accompany the bid.

Under modified competitive sale procedures, an apparent high bid will be determined. The apparent high bidder and the designated bidder (Nevada Power Company) will be notified. The designated bidder shall have 30 days from the date of the sale to exercise the preference consideration given to meet the high bid. Should the designated bidder fail to submit a bid that matches the apparent high bid within the specified time period, the apparent high bidder shall be declared high bidder. The total purchase price for the land shall be paid within 180 days of the date of the sale.

Detailed information concerning the sale, including the reservations, procedures for and conditions of sale, and planning and environmental documents, is available at the Las Vegas Field Office, Bureau of Land Management, 4765 Vegas Drive, Las Vegas, Nevada 89108.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the Field Manager, Las Vegas Field Office, at the above address. In the absence of objections, this proposal will become the final determination of the Department of the Interior.

Dated: October 22, 1999.

Phil Guerrero,

Acting Field Manager, Las Vegas Field Office.

[FR Doc. 99–29357 Filed 11–12–99; 8:45 am]

BILLING CODE 1430–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Privacy Act of 1974, as Amended; Systems of Records

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of minor changes to a Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of the Interior is updating a system of records managed by the National Park Service (NPS). The changes are to the system of records ''Special Use Permits, Interior, NPS–1,'' which is published in its entirety below.

DATES: These actions will be effective November 15, 1999.

FOR FURTHER INFORMATION CONTACT: For information regarding these changes, and for general information regarding NPS' Privacy Act Program, contact Ms. Diane Cooke, NPS Privacy Act Officer, at (202) 208–3933.

SUPPLEMENTARY INFORMATION: The Department of the Interior is amending the system notice for NPS–1, ''Special Use Permits'' to more accurately describe and update the system locations, retention and disposal, retrievability, storage, safeguards, and record access procedures. Accordingly, the Department of the Interior proposes to amend the ''Special Use Permits,'' NPS–1 in its entirety to read as follows:

Diane M. Cooke,

NPS FOIA Officer.

INTERIOR/NPS–1

SYSTEM NAME:

Special Use Permits—Interior, NPS–1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Visitor to National Parks or commercial entities who receive special use permits.

SYSTEM LOCATION:

Records are kept at the park of office issuing the permit. (See Appendix for addresses).

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains permittees' names, addresses, terms, and conditions of permits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is for (1) Park management. Disclosures outside the Department of the Interior may be made to:

(1) Another Federal agency to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(2) The Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when:

(a) One of the following is a party to the proceeding or has an interest in the proceeding:

(1) The Department or any component of the Department;

(2) Any Departmental employee acting in his or her official capacity;

(3) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee; or

(4) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and

(b) The Department deems the disclosure to be:

(1) Relevant and necessary to the proceedings; and

(2) Compatible with the purpose for which we compiled the information.

(3) The appropriate Federal, State, tribal, local or foreign governmental agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, order or license, when we become aware of an indication of a violation or potential violation of the statute, rule regulation, order or license.

(4) A congressional office in response to an inquiry to that office by the individual to whom the records pertains.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders and electronically as computer files.

RETRIEVABILITY:

Indexed by permittee's name or permit number.

SAFEGUARDS:

Stored in lockable metal file cabinets or unlocked cabinets in secured rooms or buildings on either United States Government-owned or leased facilities. Computer files are password protected to restrict unauthorized access.

RETENTION AND DISPOSAL:

Records not involving fees or cost recovery are maintained for one year and one day. Records involving cost recovery and/or fees are maintained for six years and three months. Disposal of all records is in accordance with retention and disposal schedules following prescribed methods.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Park Operations, National Park Service, United States Department of the Interior, Washington, DC 20240.

NOTIFICATION PROCEDURES:

To determine whether the records are maintained on you in this system, write to the Systems Manager or to the offices cited under ''Records Location.'' (See 43 CFR 2.60)

RECORD ACCESS PROCEDURES:

To see your records, write the Systems manager or the offices cited under ''Records Location.'' Describe as specifically as possible the records sought. If copies are desired, the requester is responsible for payment of all costs involved in supplying the requested records. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURE:

To request corrections or the removal of material from your files, write the Systems Manager. (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

[FR Doc. 99–29415 Filed 11–15–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Privacy Act of 1974, as Amended; Systems of Records

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of minor changes to a system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of the Interior is updating a system of records managed by the National Park Service (NPS). The changes are to the system of records ''Law Enforcement Files: Statistical Reporting System, incident card reference and related files, Interior, NPS–19,'' which is published in its entirety below.

DATES: These actions will be effective November 15, 1999.

FOR FURTHER INFORMATION CONTACT: For information regarding these changes, and for general information regarding NPS' Privacy Act program, contact Ms. Diane Cooke, NPS Privacy Act Officer, at (202) 208–3933.

SUPPLEMENTARY INFORMATION: When originally published in the **Federal Register** this system of records was identified as above. With the publishing of this notice, the name of this system of records is changed to ''Case Incident Reporting System.'' The address of the System Manager has also been changed to reflect an organizational change within NPS.

Diane M. Cooke,

Privacy Act Officer, National Park Service.

INTERIOR/NPS–19

SYSTEM NAME:

Case Incident Reporting System.

SYSTEM LOCATION:

(1) United States Park Police, 1100 Ohio Drive, SW., Washington, DC 20242. (2) New York Field Office, Bldg. #275, Floyd Bennet Field, Brooklyn, NY 11234. (3) San Francisco Field Office, Fort Mason, San Francisco, CA. 94123. (4) National Park areas and Regional Offices (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual complainants in criminal cases, individuals investigated or arrested for criminal or traffic offenses, or involved in motor vehicle accidents, or certain types of non-criminal incidents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of individual, date and case number of incident, report of incident, and fingerprint information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

The primary uses of the records are: (1) To identify incidents in which individuals were involved, (2) to retrieve the report for information for the individual involved, such as accident reports and reports of found property, (3) to aid National Park Service Law enforcement officers on a need to know basis, (4) as the basis for criminal investigations conducted by the United States Park Police, and commissioned law enforcement employees, and (5) to assist local and Regional law enforcement agencies working in areas contiguous to areas under the jurisdiction of the NPS. Disclosures outside the Department of the Interior may be made: (1) Another Federal agency to enable that agency to respond to an inquiry by the individual to whom the record pertains. (2) The Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when: (a) One of the following is a party to the proceeding or has an interest in the proceeding: (1) The Department or any component of the Department; (2) Any Departmental employee acting in his or her official capacity; (3) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee; or (4) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and (b) The Department deems the disclosure to be: (1) Relevant and necessary to the proceedings; and (2) Compatible with the purpose for which we compiled the information. (3) The appropriate Federal, State, tribal, local or foreign governmental agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, order or license, when we become aware of an indication of a violation or potential violation of the statute, rule regulation, order or license. (4) A congressional office in response to an inquiry to that office by the individual to whom the records pertains. (5) to local and Regional law enforcement agencies for the purpose of inclusion in automated fingerprint data systems.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681 a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual records, magnetic disk, diskette, and computer tapes.

RETRIEVABILITY:

(1) Manually, by name of individual and park, and (2) automated, by name and incident number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for manual and automated records.

RETENTION AND DISPOSAL:

Records are maintained for various lengths of time, depending of the seriousness of the incident. Records are retired to the Federal Records Center or purged, depending on the nature of the document.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Commander, Information Management Section, U.S. Park Police, National Park Service, United States Department of the Interior, Washington, DC 20242. (2) Chief Ranger, Ranger Activities Division, National Park Service, United States Department of the Interior, Washington, DC 20240.

RECORD SOURCE CATEGORIES:

Incident information obtained from individual on whom information is maintained, witnesses, and investigating officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under the general exemption authority provided by 5 U.S.C. 552a(j)(2), the Department of the Interior has adopted a regulation, 43 CFR 2.79(a), which exempts this system from all of the provisions of 5 U.S.C. 552a, and the regulations in 43 CFR, part 2, subpart D, except subsections (b), (c), and (1), and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) of 5 U.S.C. 552a and the portions of the regulations in 43 CFR part 2, subpart D implementing these subsections. The reasons for adoption of this regulation are set out at 40 FR 37217 (August 26, 1975).

[FR Doc. 99–29416 Filed 11–15–99; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Privacy Act of 1974, as Amended; Systems of Records

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of minor changes to a system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Department of the Interior is updating a system of records managed by the National Park Service (NPS). The changes are to the system of records ''Land Acquisition Management Information System (Interior, NPS–3),'' which is published in its entirety below.

DATES: These actions will be effective November 15, 1999.

FOR FURTHER INFORMATION CONTACT: For information regarding these changes, and for general information regarding NPS' Privacy Act program, contact Ms. Diane Cooke, NPS Privacy Act Officer, at (202) 208–3933.

SUPPLEMENTARY INFORMATION: When originally published in the **Federal Register**, this system of records was identified as above. With the publishing of this notice, the name of the system of records is changed to ''Land Acquisition Management Information System and Master Deed Listing.'' The address of the System Manager and the System Location has also been changed to reflect an organizational change within the NPS. In addition, ''tenants'' have been added to the Categories of Individuals Covered by the System, ''inactive'' has been added to the Categories of Records in the System, and the Debt Collection Improvement Act of 1996, has been added to the ''Disclosure to Consumer Reporting Agencies section.

Diane M. Cooke,

Privacy Act Officer, National Park Service.

INTERIOR/NPS–3

SYSTEM NAME:

Land Acquisition Management Information System and Master Deed Listing '' Interior, NPS–3.

SYSTEM LOCATION:

Land Resources Division, National Park Service, in Washington, DC, Regional Land Resources Program

Centers and Land Resources Project Offices (See Appendix for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners and tenants of land within the National Park System.

CATEGORIES OR RECORDS IN THE SYSTEM:

Management and monitoring of active and inactive land acquisition projects. Contains records for each tract acquired, scheduling, and progress data, landowners' names and addresses, and descriptive data on each tract.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 1, 44 U.S.C 3101, and 42 U.S.C. 4651.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is for: (1) Land acquisition management and (2) Land acquisition statistics for the National Park Service personnel, Congressional, or public information. Disclosure outside the United States Department of the Interior may be made:

(1) Another Federal agency to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(2) The Department of Justice, or to a court, adjudicative or other administrative body, or to a party in litigation before a court or adjudicative or administrative body, when:

(a) One of the following is a party to the proceeding or has an interest in the proceeding:

(1) The Department or any component of the Department;

(2) Any Departmental employee acting in his or her official capacity;

(3) Any Departmental employee acting in his or her individual capacity where the Department or the Department of Justice has agreed to represent the employee; or

(4) The United States, when the Department determines that the Department is likely to be affected by the proceeding; and

(b) The Department deems the disclosure to be:

(1) Relevant and necessary to the proceedings; and

(2) Compatible with the purpose for which we compiled the information.

(3) The appropriate Federal, State, tribal, local or foreign governmental agency that is responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, order or license, when we become aware of an indication of a violation or potential violation of the statute, rule regulation, order or license.

(4) A congressional office in response to an inquiry to that office by the individual to whom the records pertains.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), and the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701–3722).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized.

RETRIEVABILTY:

Indexed by tract number but retrievable by tract number or landowner's name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Maintained until superseded by updated or revised version.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, National Program Center, Division of Land Resources, National Park Service, United States Department of the Interior, 1849 C. St. NW., Washington, DC. 20240.

NOTIFICATION PROCEDURE:

To determine whether records are maintained on you in this system, write to the System Manager (See 43 CFR 2.60)

RECORDS ACCESS PROCEDURES:

To see your records, write the System Manager. Describe as specifically as possible the records sought. If copies are desired, indicate the maximum you are willing to pay. (See 43 CFR 2.63)

CONTESTING RECORD PROCEDURES:

To request corrections or the removal of material from your files, write the Systems Manager (See 43 CFR 2.71)

RECORD SOURCE CATEGORIES:

Project and Regional Offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Privacy Act does not entitle an individual to have access to any information compiled in reasonable anticipation of a civil action or proceeding.

Appendix of Land Resources Offices

National Park Service, Land Resources Division, 1849 C Street, NW., Washington, DC. 20240

National Park Service, National Capital Region, Land Resources Program Center, 1100 Ohio Drive, SW., Washington, DC. 20242

National Park Service, Alaska Region, Land Resources Program Center, 2525 Gambell Street #107, Anchorage, Alaska 99503–2892

National Park Service, Appalachian Trail Land Acquisition, Field Office, PO. Box 908, 1314 Edwin Miller Boulevard, Martinsburg, West Virginia 25402–0908

National Park Service, Intermountain Land Resources, Program Center, Santa Fe 1220 South St. Francis Dr., Room 226, PO. Box 728, Santa Fe, New Mexico 87504–0728

National Park Service, Midwest Region, Land Resources Program Center, 1709 Jackson Street, Omaha, Nebraska 68102

National Park Service, Northeast Region, Land Resources Program Center, U.S. Custom House, 200 Chestnut Street, 3rd Floor, Philadelphia, Pennsylvania 10106–2988

National Park Service, Pacific West Region, Pacific land Resources Program Center, 600 Harrison Street, Suite 600, San Francisco, California 94107–1372

National Park Service, Pacific West Region, Columbia Cascades Land Resources, Program Center, 909 First Avenue, Seattle, Washington 98104–1060

National Park Service, Southeast Land Resources, Program Center, Atlanta Federal Center, 1924 Building, 100 Alabama Street SW, Atlanta, Georgia 30303

National Park Service, SE Land Acquisition Project Office, 2900 Horseshoe Drive, South, Suite 100, Naples, FL 34104

[FR Doc. 99–29417 Filed 11–15–99; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–432 (Review)]

Drafting Machines From Japan

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on drafting machines from Japan would be likely to lead to continuation or recurrence of material injury to an

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioners Carol T. Crawford and Thelma J. Askey dissenting.

industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on June 1, 1999 (64 F.R. 29339) and determined on September 3, 1999, that it would conduct an expedited review (64 F.R. 50105, September 15, 1999).

The Commission transmitted its determination in this review to the Secretary of Commerce on November 8, 1999. The views of the Commission are contained in USITC Publication 3252 (November 1999), entitled Drafting Machines from Japan: Investigation No. 731–TA–432 (Review).

Issued: November 9, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–29736 Filed 11–12–99; 8:45 am]

BILLING CODE 1020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–386 (Final)]

Live Cattle From Canada

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On October 22, 1999, the Department of Commerce published notice in the **Federal Register** of a negative final determination of countervailable subsidies in connection with the subject investigation (64 FR 57040). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the countervailing duty investigation concerning live cattle from Canada (investigation No. 701–TA–386 (Final)) is terminated.

EFFECTIVE DATE: October 22, 1999.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR § 201.10).

Issued: November 4, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–29733 Filed 11–12–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–429 (Review)]

Mechanical Transfer Presses From Japan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a full five-year review concerning the antidumping duty order investigation on mechanical transfer presses from Japan.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on mechanical transfer presses from Japan would be likely to lead to continuation or recurrence of material injury. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1999, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (64 FR 50107, September 15, 1999). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Participation in the Review and Public Service List.

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the review will be placed in the nonpublic record on March 15, 2000, and a public version will be issued thereafter,

pursuant to section 207.64 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on April 4, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 21, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 28, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is March 24, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is April 13, 2000; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before April 13, 2000. On May 5, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 9, 2000, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: November 9, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–29735 Filed 11–12–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–497 (Review) and Investigation No. 731–TA–539–B (Review)]

Tungsten Ore Concentrates From China and Uranium From Kyrgyzstan

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in August 1999 to determine whether revocation of the existing antidumping duty order/termination of the existing suspension agreement would be likely to lead to continuation or recurrence of dumping and of material injury to a domestic industry. On November 3, 1999, the Department of Commerce published notice that it was revoking the order on tungsten ore concentrates and terminating the suspended investigation on uranium ''because no domestic party responded to the sunset review notice of initiation by the applicable deadline'' (64 FR 59737). Accordingly, pursuant to section 207.69 of the Commission's Rules of Practice and Procedure (19 CFR 207.69), the subject reviews are terminated.

EFFECTIVE DATE: November 3, 1999.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

Issued: November 4, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–29734 Filed 11–12–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 179–99]

Privacy Act of 1974; Notice of the Removal of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Drug Enforcement Administration (DEA), Department of Justice, is deleting existing Privacy Act Notices for nine (9) Systems of Records previously established by DEA.

DEA is deleting the System Notice for the ''Medical Records, JUSTICE/DEA–009,'' the ''Drug Enforcement Administration Accounting System (DEAAS II), JUSTICE/DEA–016,'' ''Drug Enforcement Administration Applicant Investigations (DAI), JUSTICE/DEA–018,'' ''Clerical, Technical Professional Program (CTAP), JUSTICE/DEA–023,'' and the ''Employee Profile System (DEPS), JUSTICE/DEA–027,'' which were last published in the **Federal Register** on December 11, 1987 (52 FR 47200). It has been determined that these Systems of Records are covered by existing Office of Personnel Management government wide system notices or Department of Justice system notices.

The ''Medical Records'' records still exist and are covered by the Office of Personnel Management System Notice, ''Employee Medical File System Records, OPM/GOVT–10.'' The ''Drug Enforcement Administration Accounting System (DEAAS II)'' records still exist and are covered by the Department of Justice System Notice, Accounting Systems for the Department of Justice, JUSTICE/JMD–007.'' The ''Drug Enforcement Administration

Applicant Investigations (DAI)'' records still exist and are covered by the Office of Personnel Management System Notice ''Personnel Investigation Records, OPM/Central–9.'' The ''Clerical, Technical Professional Program (CTAP)'' and the ''Employee Profile System (DEPS)'' System of Records still exist and are covered by the Office of Personnel Management System Notice, ''General Personnel Records OPM/GOVT–1.''

DEA is deleting the ''Stride/Ballistics, JUSTICE/DEA–014,'' System of Records which was last published in the **Federal Register** on December 11, 1987 (52 FR 47200). This System of Records was erroneously reported as a Privacy Act System of Records. The records contained in the system are not retrievable by an individual's name or personal identifier and, thus, do not constitute a Privacy Act System of Records.

A proposal to remove the ''International Intelligence Data Base, JUSTICE/DEA–007,'' the ''Regional Automated Intelligence System (RAIDS), JUSTICE/DEA–028,'' and the ''Agent Recruit Assessment Program, JUSTICE/DEA–030'' appeared in the **Federal Register** on July 24, 1984, (49 FR 29857). These Systems of Records were erroneously listed in the 1997 Department of Justice Compilation of Privacy Act Systems of Records. It has been determined that these Systems of Records no longer exist. For clarification, these systems are again referenced in this Notice of Removal.

Therefore, the ''International Intelligence Data Base,'' the ''Medical Records,'' the ''Stride/Ballistics,'' the ''Drug Enforcement Administration Accounting System (DEAAS II),'' the ''Clerical, Technical Professional Program (CTAP),'' the ''Employee Profile System (DEPS),'' the ''Regional Automated Intelligence System (RAIDS),'' the ''Agent Recruit Assessment Program'' are hereby removed from the Department of Justice's compilation of Privacy Act System.

Dated: October 25, 1999.

Stephen R. Colgate,

Assistant Attorney General for Administration.

[FR Doc. 99–29620 Filed 11–12–99; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,720]

Blue Fish Clothing, Incorporated Frenchtown, NJ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 23, 1999 in response to a worker petition which was filed on behalf of workers at Blue Fish Clothing, Incorporated, Frenchtown, New Jersey.

The petitioner requested that the petition be withdrawn. Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 1st day of November 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–29701 Filed 11–12–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–36,910]

Business Products and Services (BP&S), Department of Chevron Services Company, A Division of Chevron U.S.A., Inc., San Francisco, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 30, 1999 in response to a worker petition which was filed on behalf of workers at the Business Products and Services (BP&S), San Francisco, California.

An active certification covering the petitioning group of workers is already in effect (TA–W–36,295B). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 28th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–29702 Filed 11–12–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,295, et al.]

Chevron U.S.A. Production Company (CPDN), Business Products and Services (BP&S), Department of Chevron Services Company, Divisions of Chevron U.S.A., Inc., Midland, TX and Operating at Various Locations in the Following States; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on July 6, 1999, applicable to workers of Chevron U.S.A. Production Company (CPDN), A Division of Chevron U.S.A., Inc, Midland, Texas and operating at various locations in the above mentioned states. The notice was published in the **Federal Register** on August 11, 1999 (64 FR 43724).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the exploration and production of crude oil and natural gas. New information shows that Business Products and Services (BP&S) is a department of Chevron Services Company, which is one of two divisions of Chevron U.S.A., Inc., the other being Chevron U.S.A. Production Co. Information also shows that worker separations occurred at Business Products and Services (BP&S) operating at various locations in California, Louisiana and Texas. The workers provide support services (*i.e.,* graphics, transportation, reprographics and mail) for the exploration and production of crude oil and natural gas provided by Chevron U.S.A. Production Company (CPDN), operating at various locations in California, Louisiana and Texas. Chevron USA Production Company is the sole customer of Business Products and Services operating at various locations in the above cited states.

Accordingly, the Department is amending the certification to cover the workers of Business Products and Services (BP&S) operating at various locations in California, Louisiana, and Texas.

The intent of the Department's certification is to include all workers of Chevron U.S.A. Production Company who were adversely affected by increased imports.

The amended notice applicable to TA–W–36,295 is hereby issued as follows:

All workers of Chevron U.S.A. Production Company (CPDN), Business Products and Services (BP&S), a department of Chevron Services Company, divisions of Chevron U.S.A., Inc., Midland, Texas (TA–W–36, 295) and at Various locations in California (TA–W–36,295B), Louisiana (TA–W–36,295D) and Texas, excluding Midland, (TA–W–36,295H) who became totally or partially separated from employment on or after April 27, 1998 through July 2, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–29704 Filed 11–12–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,621, et al.]

Dart Energy Corp., Beckman Production Services Kalkalska, MI, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 22, 1999, applicable to workers of Dart Energy Corporation, Beckman Production Services, Kalkalska, Michigan and Dart Oil and Gas Corporation, Mason, Michigan. The notice was published in the **Federal Register** on October 14, 1999 (64 FR 55750).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at the Gaylord, Harrison and Mesick, Michigan facilities of Dart Energy Corp., Beckman Production Services. Worker separations have also occurred at the Marion, Michigan location of Dart Oil and Gas Corp. These locations are all parts of an integrated production process for Dart Energy Corp., headquartered in Mason, Michigan. The workers at these facilities are engaged in the oil and gas field services for major oil and gas companies and provide office and management support services.

The intent of the Department's certification is to provide coverage to all workers of the subject firm adversely affected by increased imports. Accordingly, the Department is amending the certification to expand coverage to workers to Dart Energy Corp., Beckman Production Services, Gaylord, Harrison and Mesick, Michigan and Dart Oil and Gas Corp., Marion, Michigan.

The amended notice applicable to TA–W–36,621 and TA–W–36,621A is hereby issued as follows:

All workers of Dart Energy Corp., Beckman Production Services, Kalkalska, Michigan (TA–W–36,621), Gaylord, Michigan (TA–W–36,621C), Harrison, Michigan (TA–W–36,621D) Mesick, Michigan (TA–W–36,621E), and Dart Oil and Gas Corp., Mason, Michigan (TA–W–36,621A) and Marion, Michigan (TA–W–36,621AA) who became totally or partially separated from employment on or after July 20, 1998 through September 22, 2001 and eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 3rd day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–29710 Filed 11–12–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,554]

Hamilton Sundstrand Electronics (Formerly Hamilton Standard Electronics) CO Springs, Colorado; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 19, 1999, in response to a petition filed by a company official on the same date on behalf of workers at Hamilton Standard Electronics, currently Hamilton Sundstrand Electronics, Colorado Springs, Colorado.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 27th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–29705 Filed 11–12–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,657]

Modine Aftermarket Holdings, Inc., Including Leased Workers of Remedy Temps, Merced, California; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 27, 1999, applicable to workers of Modine Aftermarket Holdings, Inc., Merced, California. The notice was published in the **Federal Register** on October 14, 1999 (64 FR 55750).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that workers of Modine Aftermarket Holdings, Inc. were leased from Remedy Temps to produce radiators for automobiles and trucks at the Merced, California plant. Worker separations occurred at Remedy Temps as a result of worker separations at Modine Aftermarket Holdings, Inc., Merced, California.

Based on these findings, the Department is amending the certification to include workers from Remedy Temps, Merced, California leased to Modine Aftermarket Holdings, Inc., Merced, California.

The intent of the Department's certification is to include all workers of Modine Aftermarket Holdings, Inc. adversely affected by imports.

The amended notice applicable to TA–W–36,657 is hereby issued as follows:

All workers of Modine Aftermarket Holdings, Inc. Merced, California and leased workers of Remedy Temps, Merced, California engaged in employment related to the production of radiators for automobiles and trucks for Modine Aftermarket Holdings, Inc., Merced, California who became totally or partially separated from employment on or after July 19, 1998 through August 27, 2001 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 3rd day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–29711 Filed 11–2–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,991]

Sappi Fine Papers North America, Inc., Westbrook, Maine, Including Leased Workers of Manpower Technical Temporary Services, Portland, ME; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 2, 1999, applicable to workers of Sappi Fine Papers North America, Inc. located in Westbrook, Maine. The notice was published in the **Federal Register** on December 23, 1998 (64 FR 71165).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce coated graphic freesheet and speciality paper. New information provided by the company shows that some workers of Sappi Fine Papers were leased from Manpower Technical Temporary Services, Portland, Maine. The leased workers provided computer support services to the Westbrook, Maine location of Sappi Fine Papers North America, Inc. Worker separations occurred at Manpower Technical Temporary Services as a result of worker separations at Sappi Fine Papers North America, Inc. Accordingly, the Department is amending the workers certification to include the workers of Manpower Technical Temporary Services, Portland, Maine.

The intent of the Department's certification is to include all workers of Sappi Fine Papers North America, Inc. adversely affected by imports.

The amended notice applicable to TA–W–34,991 is hereby issued as follows:

All workers of Sappi Fine Papers North America, Inc., Westbrook, Maine and leased workers of Manpower Technical Temporary Services, Portland, Maine that provided computer support services for the production of coated graphic freesheet and speciality paper for Sappi Fine Papers North America, Inc., Westbrook, Maine who became totally or partially separated from employment on or after September 9, 1997 through December 2, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 3d day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–29712 Filed 11–12–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,577]

Statoil Exploration (US) Inc. Houston, TX; Notice of Revised Determination on Reopening

By letter of October 5, 1999, the petitioner presented evidence not previously considered in the Department's determination. Accordingly, the Department reopened the petition investigation applicable to workers of the subject firm.

The initial investigation resulted in a negative determination issued on September 7, 1999, based on the finding that workers of Statoil Exploration (US), Inc., Houston, Texas, were not engaged in exploration or production of crude oil and natural gas for U.S. customers. The denial notice was published in the **Federal Register** on October 14, 1999 (64 FR 55750).

On reopening, an official of Statoil provided additional information regarding revenues, employment and customers of the subject firm. Revenues at the subject firm derived from the exploration for crude oil and natural gas have declined since 1997. The level of employment remained unchanged from 1997 to 1998, but declined in 1999. Other new findings on reopening revealed that although the workers at the subject firm worked offshore in the Gulf of Mexico, the customers of the subject firm were domestic. Many of the subject firm's declining customers engaged in the production of crude oil have been certified eligible for FAA in the relevant time period.

Conclusion

After careful review of the additional facts obtained on reopening, I conclude that increased imports of crude oil contributed importantly to the declines in sales or production and to the total or partial separation of workers of Statoil Exploration (US), Inc., Houston, Texas. In accordance with the provisions of the Act, I make the following certification:

All workers of Statoil Exploration (US), Inc., Houston, Texas, who became totally or partially separated from employment on or after July 7, 1998 through two years from the date of this certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 4th day of November 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–29700 Filed 11–12–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of P.L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request if filed in writing with the Director of OTAA not later than November 26, 1999.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than November 26, 1999.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, Room

C–4318, 200 Constitution Avenue, N.W. Washington, D.C. 20210.

Signed at Washington, DC this 3rd day of November, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
North State Garment (Co.)	Farmville, NC	09/28/1999	NAFTA–3,474	Ladies garments.
Fargo Manufacturing (Wkrs)	Poughkeepsie, NY	09/29/1999	NAFTA–3,475	Connectors.
Stone Container—Smurfit (Wkrs).	El Paso, TX	09/30/1999	NAFTA–3,476	Boxes.
Wyman Gordon Forgings	Houston, TX	10/01/1999	NAFTA–3,477	Machinery.
Chrominium Corporation (Co.).	Lufkin, TX	10/01/1999	NAFTA–3,478	Repair shop.
FCI Electronics (Co.)	York, PA	09/27/1999	NAFTA–3,479	Cable assemblies for computer.
Unitron Industries (Co.)	Huron, MI	09/30/1999	NAFTA–3,480	Hearing aid.
UDV North America (IBT)	Allen Park, MI	10/01/1999	NAFTA–3,481	Distilled spirits.
Huffy Bicycles (Wkrs)	Farmington, MO	10/01/1999	NAFTA–3,482	Bicycles.
General Electric (Wkrs)	Tucson, AZ	10/01/1999	NAFTA–3,483	Electric motors.
Carter's—The William Carter (Wkrs).	Baresville, GA	09/27/1999	NAFTA–3,484	Infant wear.
Mexport (Wkrs)	El Paso, TX	10/01/1999	NAFTA–3,485	Pants, shirts and skirts.
Smithkline Beecham Pharmaceuticals (Co.).	Piscataway, NJ	10/01/1999	NAFTA–3,486	Penicillin.
Purcell Service (Wkrs)	Anchorage, AK	10/04/1999	NAFTA–3,487	Oil and gas.
Radionic's (Wkrs)	Salinas, CA	09/30/1999	NAFTA–3,488	Communicators, keypads & cable assembly.
Brighton Electric Steel Casing (USWA).	Beaver Falls, PA	10/04/1999	NAFTA–3,489	Grate bars, piercer points.
Hewlett Packard (Co.)	Corvallis, OR	10/04/1999	NAFTA–3,490	Repair printers and fax machines.
Crowley Garment (UNITE)	Crowley, LA	10/04/1999	NAFTA–3,491	Trousers.
Ball Foster Glass Container (Co.).	Los Angeles, CA	09/29/1999	NAFTA–3,492	Glass containers.
Foster Industries (Co.)	Wagener, SC	10/05/1999	NAFTA–3,493	Apparel.
BTR Sealing Systems (Wkrs).	Marville, TN	10/04/1999	NAFTA–3,494	Rubber weatherstrips.
Tultex Corporation (Co.)	Bastain, VA	10/05/1999	NAFTA–3,495	Sweat shirts.
Blue Falcon Forge (USWA)	Berwick, PA	10/06/1999	NAFTA–3,496	Forged draftlugs for railroad car.
EIEIO (Wkrs)	Fall River, MA	08/20/1999	NAFTA–3,497	Children's clothing.
Southeastern Apparel Finishing (Co.).	Johnson City, TN	10/08/1999	NAFTA–3,498	Jeans.
Brockway Mould (Co.)	Brookport, PA	10/08/1999	NAFTA–3,499	Moulds.
OMCO Mould (AFGW)	Winchester, IN	10/08/1999	NAFTA–3,500	Moulds.
Fabric Resources International (Wkrs).	Mullins, SC	10/08/1999	NAFTA–3,501	Synthetic fabric.
Dimensions (Wkrs)	Reading, PA	10/08/1999	NAFTA–3,502	Stitch models.
Rayovac (Wkrs)	Fennimore, WI	09/07/1999	NAFTA–3,503	Batteries.
Standard Motor Products (Wkrs).	Bradenton, FL	10/27/1999	NAFTA–3,504	Ignition wire sets.
Western States Machine (UAW).	Hamilton, OH	10/12/1999	NAFTA–3,505	Centrifuges.
Lucas Varity Automotive (Wkrs).	Cincinnati, OH	10/12/1999	NAFTA–3,506	Drum brake assemblies.
Oxford Automotive (UAW)	Argos, IN	10/01/1999	NAFTA–3,507	Metal stamps parts.
Ketchikan Pulp (Co.)	Ketchikan, AK	10/07/1999	NAFTA–3,508	Pulp mill.
Penn Mould Industrial (Co.)	Washington, PA	10/08/1999	NAFTA–3,509	Moulds.
G.H. Bass (Wkrs)	Manati, PR	10/13/1999	NAFTA–3,510	Shoes.
Metlakatla Forest Products (Co.).	Metlakatla, AK	10/15/1999	NAFTA–3,511	Log supply.
Robetex (Co).	Lumberton, NC	10/12/1999	NAFTA–3,512	Woven polypropelene, textiles.
Accuride (UAW)	Henderson, KY	10/12/1999	NAFTA–3,513	Tub wheels parts.
United Filters—Perry Equipment (Co.).	Amarillo, TX	10/13/1999	NAFTA–3,514	String wound filter elements.
Bayer Clothing Group (UNITE).	Clearfield, PA	10/18/1999	NAFTA–3,515	Tailored suits, coats and pants.
Delphax (Wkrs)	Canton, MA	10/12/1999	NAFTA–3,516	Printers.
Georgia Pacific (Wkrs)	Bemidji, MN	10/13/1999	NAFTA–3,517	Moldable mat.
Temco Fire Place Products (Wkrs).	Perris, CA	10/12/1999	NAFTA–3,518	36″ fireplaces.
Piezo Crystal (Wkrs)	Carlisle, PA	10/14/1999	NAFTA–3,519	Crystals.
Woods Equipment (Co.)	Seguin, TX	10/13/1999	NAFTA–3,520	Construction tractor.

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Invensys Siebe Automotive (UAW).	Carthage, TN	10/14/1999	NAFTA–3,521	Bellows & bellows assemblies.
SMF (Wkrs)	Danville, IL	10/13/1999	NAFTA–3,552	Oil.
Oxford of Monroe (Co.)	Monroe, GA	10/19/1999	NAFTA–3,523	Men's slacks.
Cambior Exploration (Wkrs)	Sparks, NV	10/20/1999	NAFTA–3,524	Gold mining.
Acme Steel (Wkrs)	Riverdale, IL	10/20/1999	NAFTA–3,525	Steel strapping.
IMC Plastics (Co.)	Tualatin, OR	10/20/1999	NAFTA–3,526	Plastics injected molded parts.
Cooper Energy Services (Wkrs).	Grove City, PA	10/21/1999	NAFTA–3,527	Pistone.
Townwear Garment (Co.)	Blairsville, GA	10/21/1999	NAFTA–3,528	Garments.
Cerplex Group (Wkrs)	Corvallis, OR	10/22/1999	NAFTA–3,529	Repair printers.
Deluxe Corporation (Wkrs)	Springfield, MA	10/14/1999	NAFTA–3,530	Programming & processing services.
Cone Mills (Co.)	Cliffside, NC	10/25/1999	NAFTA–3,531	Denim fabric.
Cone Mills (Co.)	Henrietta, NC	10/25/1999	NAFTA–3,531	Denim fabric.
Cone Mills (Co.)	Forest City, NC	10/25/1999	NAFTA–3,531	Denim fabric.
Fluid Process Systems (Co.)	El Paso, TX	10/25/1999	NAFTA–3,532	Water treatment systems.
Sweetwater Walls Industries (Co.).	Sweetwater, TX	10/19/1999	NAFTA–3,533	Work clothing.
Robett Manufacturing (Wkrs)	Riceville, TN	10/26/1999	NAFTA–3,534	Men & boys camouflage clothing.
Aalfs Manufacturing (Wkrs)	Lemars, TN	09/30/1999	NAFTA–3,535	Denim jeans.
Spartan Mills (Wkrs)	Spartanburg, SC	10/27/1999	NAFTA–3,536	Unfinished cloth.
Glamis Gold (Co.)	Valmy, NV	10/26/1999	NAFTA–3,537	Gold mining.
U.S. Sack (Wkrs)	Grand Junction, CO	10/26/1999	NAFTA–3,538	Polypropylene bulk bags.
Stupp Bros. (Co.)	Baton Rouge, LA	10/28/1999	NAFTA–3,539	Steel line pipe.
Columbiaknit (Wkrs)	Portland, OR	10/28/1999	NAFTA–3,540	Mens & women's outerwear.
Fag Bearings (Co.)	Joplin, MO	10/29/1999	NAFTA–3,541	Automotive hub bearings.
Mobius (Wkrs)	Eugene, OR	11/01/1999	NAFTA–3,542	Store display fixture.
Avery Dennison (Co.)	Greenboro, NC	11/01/1999	NAFTA–3,543	Clothing tags.

[FR Doc. 99–29703 Filed 11–12–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99–46; Exemption Application No. D–10514]

Grant of Individual Exemption; Plumbers and Pipe Fitters National Pension Fund (the Fund), Located in Alexandria, VA

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This document contains an exemption issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the respective application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department finds that the exemption is:

(a) Administratively feasible;

(b) In the interests of the plan and its participants and beneficiaries; and

(c) Protective of the rights of the participants and beneficiaries of the plan.

Plumbers and Pipe Fitters National Pension Fund (the Fund), Located in Alexandria, VA

[Prohibited Transaction Exemption 99–46 Application No. D–10514]

Exemption

The restrictions of sections 406(a)(1)(A), 406(a)(1)(B), 406(a)(1)(D), 406(b)(1), and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code* shall not apply, effective October 9, 1997, to the transfer to the Fund from the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL–CIO (the Union), a party in interest with respect to the Fund, of the Union's limited partnership interests in Diplomat Properties, Limited Partnership (the Partnership), the sole asset of which is the Diplomat Resort

*For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

and Country Club (the Property); and to the transfer to the Fund of the Union's holding of stock in Diplomat Properties, Inc., the corporate general partner of such Partnership, in consideration for a capital contribution by the Fund to the Partnership in the amount of $40 million dollars, plus reasonable costs incurred by the Union in purchasing the Property, and in consideration for the release of a certain loan obligation of the Partnership which was guaranteed by the Union and collateralized by Union assets; provided that:

(1) The transaction was a one-time transaction;

(2) An independent fiduciary (the I/F) which has the following qualifications acted on behalf of the Fund:

(a) The I/F is an individual, group of individuals, or a business entity which has substantial experience and expertise in the commercial real estate field;

(b) Neither the I/F nor any of its affiliates have any ownership or other interest in the Union or its affiliates, nor does the Union or any of its affiliates have any ownership interest in the I/F or its affiliates; and

(c) Neither the I/F nor its affiliates engages in any business transactions with the Union or its affiliates.

(3) Prior to the Fund entering the transaction, the I/F reviewed and approved the terms of the transaction, determined that the transaction was an appropriate investment for the Fund, that the amount paid by the Fund to acquire ownership of the Property through the Partnership was appropriate and fair, that the total costs incurred were necessary for the acquisition of the Property and were reasonable, and that the transaction was in the best interest of the Fund and its participants and beneficiaries;

(4) The fair market value of the Property held by the Partnership was determined by an independent, qualified appraiser, as of the date of the transaction;

(5) The Fund paid no fees or commissions as a result of the transaction; and

(6) The terms of the transaction were no less favorable to the Fund than those it would have received under similar circumstances when negotiated at arm's length with unrelated third parties.

Effective Date: The exemption is effective October 9, 1997.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department invited all interested persons to submit written comments and requests for a hearing on the proposed exemption within 45 days of the date of the publication of the Notice in the **Federal Register** on May 29, 1998. All comments and requests for hearing were due by August 3, 1998.

During the comment period, the Department received four (4) requests for a hearing. The Department has considered the concerns expressed by the individuals who have requested a hearing. After due deliberation, the Department does not believe that any issues have been raised by the commentators which would require the convening of a hearing.

The Department received letters from 65 interested persons commenting on the proposed transaction. At the close of the comment period, the Department forwarded copies of these letters to the applicant for response. The applicant responded in writing to the various concerns raised by the commentators. A description of the comments and the applicant's responses thereto are summarized below.

1. Many commentators questioned whether the acquisition, holding, and redevelopment of the Property by the Fund was an appropriate investment. In this regard, some commentators opined that real estate is a poor investment and that either hotels, in general, and/or the Property, in particular, which is the subject of the exemption, are poor real estate investments. Further, some commentators were concerned about the prudence and/or risks associated with the acquisition of the Property by the Fund in what commentators perceived to be a declining hotel market. Other commentators expressed concerns about the rehabilitation costs of the Property and questioned whether the Fund could make a profit where previous owners of the Property had failed. In this regard, a number of commentators noted that the cost to the Fund to repair and redevelop the Property would likely exceed the $40 million expended by the Fund in acquiring the Partnership which holds title to the Property. Finally, a commentator was concerned about the loss to the Fund that might result from damage to the Property because of hurricanes.

Other commentators were concerned about conflicts of interest arising in connection with the use of the Property or the operations of the Partnership. In this regard, it was alleged by several commentators that the purchase of the Property was an effort to divert plan assets to benefit private individuals. Another commentator alleged that the Property was acquired for the personal use of union officials. One commentator noted that ''there would be too great of a chance of graft and unwise decisions to enter in this venture.'' Another commentator questioned whether ''outside investors'' could become involved in the Partnership.

In response to these concerns raised by the commentators, the trustees of the Fund (the Trustees) have agreed to a number of additional requirements, including the retention by the Fund of an independent named fiduciary to oversee the Fund's investment in the Property. A term sheet dated October 13, 1999, attached as part of the representations made to the Department in a letter dated October 29, 1999 on behalf of the Trustees, details these additional requirements and the retention of the independent named fiduciary. In this regard, the Trustees will undertake such actions as are required, including amendment of the Trust Agreement, and entering into a services contract, to appoint Actuarial Sciences Associates (ASA) as named fiduciary of the Fund account which holds the Partnership, Diplomat Properties, Inc. (the general partner of the Partnership) (the GP), and other assets of the Fund either invested in or awaiting investment in the Property (collectively, the Diplomat Account).

ASA's services contract shall be subject to approval by the Secretary of Labor (the Secretary). The performance of ASA's services and responsibilities shall commence on the date when this exemption is executed by the Secretary or her delegate. Upon the effective date of the services contract, ASA or its designees will be substituted for the current board and officers of the GP. The parties agree to provide to the Secretary such information related to the Diplomat project as may be requested in order to perform her duties under the Act.

Pursuant to the terms of such services contract, ASA shall have full and complete authority, control, and discretion with respect to the construction, use and/or sale of the Property and all of its components, including, but not limited to, authority to cease or modify any construction, sell or lease any component of the project or the entire project, terminate or modify any or all existing contractual relationships, enter into new contracts and perform whatever other tasks might be necessary to maximize the financial return to the Fund of its investment in the Partnership. ASA shall (and shall have the authority to) retain on its own behalf or on behalf of the Fund or the Partnership, or continue the retention of, such individuals and entities as ASA determines are necessary and appropriate for ASA to carry out its responsibilities under the services contract consistent with its fiduciary

duties under the Act with respect to the Fund.

ASA shall not be responsible for fiduciary breaches, if any, which occurred prior to its appointment, but shall use its best efforts to mitigate any losses arising from such breaches. ASA shall be responsible for any losses caused by its own breaches of fiduciary responsibility, and by the breaches of others as provided in the Act or as set forth below.

ASA will be retained for a period of three (3) years from the date of the issuance of the exemption unless removed by the Trustees with the concurrence of the Department or pursuant to a court order for cause. In this regard, ''cause'' shall mean a material breach by ASA of its services contract with the Fund, a breach of fiduciary duty under the Act by ASA with respect to the Fund, a change in control of ASA, or the bankruptcy or insolvency of ASA. If ASA is removed during such three-year period, the Trustees shall appoint a replacement named fiduciary that is acceptable to the Department and shall designate such acceptable replacement and arrange for its acceptance of responsibility prior to the effective date of the removal. ASA may not resign during such three-year period prior to the designation of a replacement acceptable to the Department.

The Trustees will instruct the custodian of the Fund to transfer to the Diplomat Account any additional amounts requested by ASA for the operations or expenses of the Diplomat Account or the Partnership, so long as the total amount of Fund assets at risk (i.e., the Fund's investment in the Partnership plus any recourse debt in excess of the value of the assets in the Partnership) does not exceed 13 percent of the Fund assets at the time of the transfer.

ASA will be reimbursed for expenses to the extent permitted under the Fund's guidelines for expense reimbursement (the Guidelines). The auditor for the Fund will review annually ASA's expense reimbursement for compliance with the Guidelines.

ASA will request and Department will expeditiously consider a separate exemption that will permit ASA to act as a QPAM with respect to the Diplomat Account, to be retroactively effective as of the date that ASA's appointment is effective.

ASA will be permitted to retain, or continue the existing services of, such third party service providers as it deems appropriate. To the extent that ASA retains or continues to retain any such service providers to carry out any functions currently contained in the contracts of Saylor, Driscoll, and Structure Tone, Inc., with respect to the Diplomat Account, the Partnership or the successor(s) thereof, ASA shall indemnify the Fund for any losses or damages resulting from the fiduciary breaches of such service providers which occur subsequent to the appointment of ASA. ASA shall not be precluded from obtaining indemnification from any such service providers or from exercising any rights that the Fund has for indemnification under its existing agreements with any service providers and collecting any damages owed to the Fund. To the extent that the Fund, directly or indirectly, maintains a controlling interest in the underlying assets of the Partnership, or any successor(s) thereof, ASA will continue to exercise control over the Partnership, its successor(s) and any general partner thereof, including acting as or designating the board of directors and officers of said Partnership, successor(s) or general partner. In the event that the fiduciary responsibility provisions of the Act no longer apply to the underlying assets of the Partnership or its successor(s), and in the event that the Fund, directly or indirectly, maintains a controlling interest in the Partnership or its successor(s), ASA or such designees for whom ASA agrees to take full responsibility, shall make, and shall retain full responsibility for: all decisions regarding the purchase, sale, acquisition, exchange, lease, or encumbrance or sale and leaseback of any real property owned by the Partnership and of any personalty for which the transaction cost, or series of related transaction costs, exceeds $1,000,000; all decisions regarding brand affiliation for the hotel or any other piece of Partnership Property; and all decisions to assign or lease general management responsibility over the Partnership Property or any major component thereof.

2. One commentator asked why Chadwick, Saylor & Co. Inc. (CSC) had rendered its September 1997 opinion ''without all of the information that was available.'' In response, the applicant represents that although the Partnership's consultants and advisors were in the process of finalizing certain economic and financial models for the project, CSC's opinion was rendered utilizing all ''available'' information. Further, the applicant maintains that there was sufficient information at the time for CSC to determine that the transaction was a prudent investment for the Fund.

3. One commentator asked what would happen if the exemption were not granted. Another commentator asked why the transaction did not include a contingency clause relating to the requested prohibited transaction exemption. In response, the applicant expressed its understanding that in the event the exemption were denied, the Fund's transaction with the Union must be rescinded, pursuant to the Department's regulations and applicable law. Further, the applicant stated that the terms of the Fund's acquisition of the Property did not contain a contingency clause, because the applicant believed and intended that the transaction would satisfy the Department's requirements for an administrative exemption.

4. One commentator questioned whether the transaction was a way for the Fund to finance alleged losses of the Union Labor Life Insurance Company (ULLICO) in which the Fund had invested some of its assets. In response, the applicant represents that the Fund acquired the Property solely as an investment for the exclusive benefit of participants and beneficiaries of the Fund. It is represented that the transfer of the Property to ULLICO, then to the Union, and finally from the Union to the Fund was in no way intended to finance ULLICO financial losses, if any, nor were such transactions related to any investment that the Fund has in several ULLICO separate accounts and other investment vehicles.

5. A number of commentators stated that their pensions and/or the cost-of-living increases to their pensions were not large enough. Several individuals requested increased ''medical'' benefits, even though the Fund does not provide such benefits, or asked for a transfer of pension plan assets to a medical fund. One commentator objected to the denial by the Board of Trustees (the Trustees) of a pension disability claim.

The Trustees believe that the Prohibited Transaction Exemption Procedure is not the appropriate venue in which to address concerns about the administration of the Fund, benefits levels, or individual benefit claims. Accordingly, the Trustees have made no attempt to address these comments.

6. One commentator expressed opposition to the acquisition of the Property by the Fund on the basis that a pension fund sponsored by the United Association Local 777, an affiliate of the Union, improperly invested the assets of such pension fund. After researching the public records, the applicant informed the Department that consent judgments were entered on May 5, 1998, against a broker and the trustees of the

Connecticut Plumbers and Pipefitters Pension Fund (the Connecticut Fund) for violations of the Act involving imprudent investment in risky mortgage-backed securities. The applicant maintains that, as a legal matter, the Connecticut Fund is a separate and distinct entity, and the activities of its broker and trustees are unrelated to the Fund and the Union and, therefore, should not affect the requested exemption.

Accordingly, based upon the representations made by the applicant, the written comments received in response to the proposal and the applicant's responses, including the agreement to undertake the actions described in the term sheet, the Department has determined to grant the exemption. In this regard, the Department notes that the additional undertakings agreed to by the applicant, including the appointment of ASA as an independent fiduciary, were material factors in the Department's determination to grant a final exemption. Finally, the Department notes that the representations and term sheet contained in the applicant's letter dated October 29, 1999, supercede any of the applicant's earlier responses to the comments received by the Department to the extent inconsistent.

The comments submitted by the commentators to the Department and the applicant's response thereto have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is available for public inspection in the Public Documents Room of the Pension Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on May 29, 1998, 63 FR 29453.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 8th day of November, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 99–29678 Filed 11–12–99; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules for Electronic Copies Previously Covered by General Records Schedule 20; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal.

This request for comments pertains solely to schedules for electronic copies of records created using word processing and electronic mail where the recordkeeping copies are already scheduled. (Electronic copies are records created using word processing or electronic mail software that remain in storage on the computer system after the recordkeeping copies are produced.)

These records were previously approved for disposal under General Records Schedule 20, Items 13 and 14. Pursuant to NARA Bulletin 99–04, agencies must submit schedules for the electronic copies associated with program records and administrative records not covered by the General Records Schedules. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a). To facilitate review of these schedules, their availability for comment is announced in **Federal Register** notices separate from those used for other records disposition schedules.

DATES: Requests for copies must be received in writing on or before December 30, 1999. On request, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums concerning a proposed schedule. These, too, may be requested. Requesters will be given 30 days to submit comments.

Some schedules submitted in accordance with NARA Bulletin 99–04 group records by program, function, or organizational element. These schedules do not include descriptions at the file series level, but, instead, provide citations to previously approved schedules or agency records disposition manuals (see Supplementary Information section of this notice). To facilitate review of such disposition requests, previously approved schedules or manuals that are cited may be requested in addition to schedules for the electronic copies. NARA will provide the first 100 pages at no cost. NARA may charge $.20 per page for additional copies. These materials also may be examined at no cost at the National Archives at College Park (8601 Adelphi Road, College Park, MD).

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle

Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports and/or copies of previously approved schedules or manuals should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Marie Allen, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs the records to conduct its business. Routine administrative records common to most agencies are approved for disposal in the General Records Schedules (GRS), which are disposition schedules issued by NARA that apply Government-wide.

In the past, NARA approved the disposal of electronic copies of records created using electronic mail and word processing via General Records Schedule 20, Items 13 (word processing documents) and 14 (electronic mail). However, NARA has determined that a different approach to the disposition of electronic copies is needed. In 1998, the Archivist of the United States established an interagency Electronic Records Work Group to address this issue and pursuant to its recommendations, decided that agencies must submit schedules for the electronic copies of program records and administrative records not covered by the GRS. On March 25, 1999, the Archivist issued NARA Bulletin 99–04, which tells agencies what they must do to schedule electronic copies associated with previously scheduled program records and certain administrative records that were previously scheduled under GRS 20, Items 13 and 14.

Schedules submitted in accordance with NARA Bulletin 99–04 only cover the electronic copies associated with previously scheduled series. Agencies that wish to schedule hitherto unscheduled series must submit separate SF 115s that cover both recordkeeping copies and electronic copies used to create them.

In developing SF 115s for the electronic copies of scheduled records, agencies may use either of two scheduling models. They may add an appropriate disposition for the electronic copies formerly covered by GRS 20, Items 13 and 14, to every item in their manuals or records schedules where the recordkeeping copy has been created with a word processing or electronic mail application. This approach is described as Model 1 in Bulletin 99–04. Alternatively, agencies may group records by program, function, or organizational component and propose disposition instructions for the electronic copies associated with each grouping. This approach is described as Model 2 in the Bulletin. Schedules that follow Model 2 do not describe records at the series level.

For each schedule covered by this notice the following information is provided: name of the Federal agency and any subdivisions requesting disposition authority; the organizational unit(s) accumulating the records or a statement that the schedule has agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency; the control number assigned to each schedule; the total number of schedule items; the number of temporary items (the record series proposed for destruction); a brief description of the temporary electronic copies; and citations to previously approved SF 115s or printed disposition manuals that scheduled the recordkeeping copies associated with the electronic copies covered by the pending schedule. If a cited manual or schedule is available from the Government Printing Office or has been posted to a publicly available Web site, this too is noted.

Further information about the disposition process is available on request.

Schedule Pending

Federal Communications Commission, Common Carrier Bureau, (N9–173–00–3, 1 item, 1 temporary item). Electronic copies of records created using electronic mail and word processing that relate to the development and administration of policies and programs for the regulation of the facilities, rates, and practices of entities that furnish telecommunication services as well as the licensing of radio facilities used for such services. Included are electronic copies of records pertaining to such subjects as appropriations, policy and research agendas, license applications, contracts, antenna patters, financial reports, deregulation of customer premises equipment, competitive safeguards, and cost allocations. This schedule follows Model 2 as described in the **SUPPLEMENTARY INFORMATION** section of this notice. Recordkeeping copies of these files are included in Disposition Job Numbers NC1–173–80–2, NC1–173–83–3, NC1–173–84–1, N1–173–85–4, N1–173–86–3, N1–173–87–5, N1–173–89–2, N1–173–90–1, N1–173–90–2, N1–173–91–3, N1–173–95–1, N1–173–97–1, and N1–173–98–5.

Dated: November 2, 1999.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 99–29775 Filed 11–12–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Literature section (Heritage & Preservation, Education, and Access categories), to the National Council on the Arts will be held from December 6–7, 1999 in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC, 20506. A portion of this meeting, from 11 a.m. to 1 p.m. on December 7th, will be open to the public for policy discussion.

The remaining portions of this meeting, from 9 a.m. to 7 p.m. on December 6th and from 9 a.m. to 11 a.m. and 1 p.m. to 5 p.m. on December 7th, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 12, 1999, these sessions will be closed

to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: November 3, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–29697 Filed 11–12–99; 8:45 am]

BILLING CODE 7537–01–M

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's web site (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in November 1999. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in December 1999.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the ''applicable percentage'' (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in November 1999 is 5.32 percent (*i.e.*, 85 percent of the 6.26 percent yield figure for October 1999).

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between December 1998 and November 1999.

For premium payment years beginning in:	The assumed interest rate is:
December 1998	4.46
January 1999	4.30
February 1999	4.39
March 1999	4.56
April 1999	4.74
May 1999	4.72
June 1999	4.94
July 1999	5.13
August 1999	5.08
September 1999	5.16
October 1999	5.16
November 1999	5.32

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in December 1999 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 8th day of November 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 99–29757 Filed 11–12–99; 8:45 am]

BILLING CODE 7708–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Amendment to a System of Records

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice to amend a system of records.

SUMMARY: OPM proposes to amend a system of records in its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of record systems maintained by the agency ((5 U.S.C. 552a(e)(4)).

DATES: The changes will be effective without further notice December 27, 1999, unless comments are received that result in further modifications.

ADDRESSES: Send written comments to the Office of Personnel Management, ATTN: Mary Beth Smith-Toomey, Office of the Chief Information Officer, 1900 E Street, NW., Room 5415, Washington, DC 20415–7900.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606–8358.

SUPPLEMENTARY INFORMATION: This amendment changes the name and address of the systems manager for the system of records designated as OPM/INTERNAL 5 (Pay, Leave, and Travel Records) from Assistant Director, Office of Contracting and Administrative Services, zip code 20415–0001, to Chief Financial Officer, zip code 20415–1200. This amendment also adds a new routine use which is to disclose information to the Department of Health and Human Services on new hires and quarterly wages as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Office of Personnel Management.

Janice R. Lachance,

Director.

OPM/INTERNAL–5

SYSTEM NAME:

Pay, Leave, and Travel Records.

SYSTEM LOCATION:

Office of the Chief Financial Officer, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, and in the office where the individual is currently employed for use by timekeeper, budget and finance, travel personnel, or fare subsidy program manager or coordinator.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former OPM employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains various records relating to pay, leave, and travel. This includes information such as: Name; date of birth; Social Security Number; home address; grade; employing organization; timekeeper number; salary; pay plan; number of hours worked; leave accrual rate, usage, and balances; Civil Service Retirement and Federal Retirement System contributions; FICA withholdings; Federal, State, and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments to financial organizations; garnishment documents; savings bonds allotments; union and management association dues withholding allotments; travel expenses; and information on the leave transfer program and fare subsidy program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Includes the following with any revisions or amendments:

31 U.S.C. 66a; 5 U.S.C. 5501 *et seq.*, 5525 *et seq.*, 5701 *et seq.*, and 6301 *et seq.*; Executive Order 9397; Pub. L. 100–202, Pub. L. 100–440, and Pub. L. 101–509.

PURPOSE(S):

These records are used to administer the pay, leave, and travel requirements of OPM and in the administration of the fare subsidy program. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses 1 through 10 of the Prefatory Statement at the beginning of OPM's system notices (60 FR 63075, effective January 17, 1996) apply to the records maintained within this system. The following routine uses are specific to this system of records only:

a. By the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

b. By the Department of the Treasury to issue checks and U.S. Savings Bonds.

c. By State offices of unemployment compensation with survivor annuity or health benefits claims or records reconciliations.

d. By Federal Employee's Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations.

e. To disclose information to the Internal Revenue Service and State and local tax authorities.

f. To provide officials of labor organizations recognized under 5 U.S.C. Chapter 71 with information as to the identity of OPM employees contributing union dues each pay period and the amount of dues withheld from each contributor.

g. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

h. To disclose information to any source from which additional information is requested relevant to an OPM determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

i. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

j. To disclose, annually, pay data to the Social Security Administration and the Department of the Treasury as required.

k. To disclose information to a Federal agency or Congressional inquiry from which additional or statistical information is requested relevant to the OPM Fare Subsidy Program.

l. To disclose information to the Department of Health and Human Services on new hires and quarterly wages as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in an automated data base, in file folders and loose leaf binders, and on cards and magnetic tapes.

RETRIEVABILITY:

These records are retrieved by the names, Social Security Numbers, or OPM employee identification numbers of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

These records are maintained for varying periods of time, in accordance with NARA General Records Schedules 2 (pay and leave) and 9 (travel). Disposal of manual records is by shredding or burning; magnetic tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–1200.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information on them should contact the system manager indicated, or the OPM regional office where the individual is or was employed. Individuals must furnish the following for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. OPM employment identification number.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager indicated, or the OPM regional office where the individual is or was employed. Individuals must provide the following information for their records to be located and identified:

a. Full name
b. Date of birth
c. Social Security Number
d. OPM employment identification number

Individuals requesting access must also follow the OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should contact the system manager indicated , or the OPM regional office where the individual is or was employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name
b. Date of birth
c. Social Security Number
d. OPM employment identification number

Individuals requesting amendment must also follow the OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual to whom the record pertains.

b. OPM officials responsible for pay, leave, and travel requirements.

c. Other official personnel documents of OPM.

[FR Doc. 99–29687 Filed 11–12–99; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27098]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

November 5, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transactions(s) summarized below. The application(s) and/or declarations(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the applications(s) and/or declaration(s) should submit their views in writing by November 30, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After November 30, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New Century Energies, Inc., et al. (70–8787)

New Century Energies, Inc. (''NCE''), a registered holding company, and two of its wholly owned subsidiaries, Public Service Company of Colorado (''PSCo''), an electric and gas utility company, and NC Enterprises, Inc. (''Enterprises''), a nonutility company, each located at 1225 17th Street, Denver, Colorado 80202–5533, have filed a post-effective amendment under sections 9(a), 10, 12(b), 12(c) and 12(f) of the Act and rules 43, 45, 46 and 54 under the Act, to their application-declaration filed under sections 6(a), 7, 9(a), 10 and 13(b) of the Act and rules 80 through 91, 93 and 94 under the Act.

By order dated August 1, 1997 (HCAR No. 26748) (the ''Merger Order''), the Commission authorized, among other things, NCE to acquire all of the issued and outstanding common stock of PSCo and Southwestern Public Service Company (''SPS''), an electric utility company, and to organize Enterprises as an intermediate holding company for certain of the existing nonutility subsidiaries of PSCo and SPS which the Commission held to be retainable under the standards of section 11(b)(1) of the Act. In accordance with the Merger Order, PSCo transferred Natural Fuels Corporation (''Natural Fuels''), an 83.63% owned subsidiary of PSCo, to Enterprises. The remaining 16.37% interest in Natural Fuels is owned by CIC Stock Corporation (''CIC''), an indirect subsidiary of the Coastal Corporation, which is a nonaffiliate of NCE.

Natural Fuels currently holds a 50% interest in Natural/Total Limited Liability Company (''Natural/Total''), a Wyoming limited liability company, and a 50% profits interest (25% capital interest) in Natural/Peoples Limited Liability Company (''Natural/Peoples''), also a Wyoming limited liability company. Natural/Total, in turn, holds a 67% interest in Natural/Total/KN Limited Partnership (''Natural/Total LLP'').

Natural Fuels and its subsidiaries named above are engaged in two distinct lines of business which relate generally to the commercialization of compressed natural gas as a fuel for motor vehicles. One line of business includes the conversion of motor vehicles to permit operation by compressed natural gas or propane, and the construction, ownership and operation of compressed natural gas fueling stations (''Energy Services''). The other line of business involves the packaging and marketing of compressed natural gas fueling facility equipment (''Station Equipment''). The applicants state that the two lines of business have substantially different customer bases, geographic focus, and capital requirements. The Energy Services business is confined to parts of Colorado and Wyoming and generally serves the needs of motor vehicle users (both individual and fleet). This business generally involves the ownership and operation of long-lived assets (viz. refueling stations). In contrast, the Station Equipment business is national and international in scope, and serves the needs of fuel providers, utilities, and automotive fleet operators, rather than vehicle users. This business does not involve investment in or ownership or operation of long-lived assets.

The applicants state that they have determined that it would be desirable from an operational and organizational standpoint to separate Natural Fuel's Energy Services and Station Equipment businesses and transfer the former back to PSCo. The applicant assert that the Energy Services business fits well with PSCo's gas utility operations, as they share a similar customer base in Colorado and Wyoming and involve similar operational characteristics. Moreover, PSCo already owns and operates compressed natural gas fueling stations at the majority of its service centers for the operation of more than 350 service vehicles which use compressed natural gas in compliance with the requirements of the Energy Policy Act of 1992. The applicants also assert that the transfer would streamline and focus the marketing and public education efforts that are now conducted by both Natural Fuels and PSCo. To effectuate the goals of separating Natural Fuels Energy Services and Station Equipment businesses and of transferring the former back to PSCo, the applicants

request approval for a series of related transactions.

First, Natural Fuels proposes to redeem the 16.37% interest in its outstanding common stock that is held by CIC through a distribution of certain unappreciated property (e.g., inventory assets, accounts receivable, etc.). Natural Fuels then proposes to organize and acquire the securities of two newly organized limited liability companies—Natural Fuels LLC (''NATCO'') and Natural Station Equipment LLC (''STATCO'')—by contributing its remaining assets, which includes its membership interest in Natural/Total and Natural/Peoples. Natural Fuels seeks authorization to distribute the membership interest in STATCO to Enterprises, which will continue to hold such interest indefinitely. Enterprises then proposes to transfer 100% of the common stock of Natural Fuels to PSCo by means of a declaration of a dividend of the shares of Natural Fuels to NCE, followed by a capital contribution of such shares by NCE to PSCo. As a result, Natural Fuels would become a wholly owned subsidiary of PSCo. In addition, PSCo proposes to organize and acquire a new subsidiary (''New Natural Fuels''), which will be a single-member limited liability company. Lastly, Natural Fuels proposes to merge Natural Fuels into New Natural Fuels.

As a result of these interrelated transactions, PSCo will then own, directly and indirectly through New Natural Fuels, all of the compressed natural gas services business of Natural Fuels, consisting of the existing refueling station operations in Colorado and Wyoming and vehicle conversion operations. The assets and business associated with Natural Fuels' station equipment business will remain with Enterprises.

For the Commission by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–29651 Filed 11–12–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24126; 812–11354]

Prudential Investments Fund Management LLC, et al.; Notice of Application

November 5, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act of permit certain joint transactions.

Summary of Application

Applicants request an order to permit: (i) Certain registered investment companies to lend their portfolio securities to affiliated broker-dealers; (ii) an affiliated lending agent to receive a fee based upon a share of the proceeds derived by the registered investment companies from their securities lending activities; (iii) the registered investment companies and certain affiliated institutional accounts to deposit cash collateral received in connection with their securities lending activities and uninvested cash into certain other registered investment companies; and (iv) certain transactions between the registered investment companies.

Applicants: Prudential Balanced Fund, Prudential California Municipal Fund, Prudential Developing Markets Fund, Prudential Distressed Securities Fund, Inc., Prudential Diversified Bond Fund, Inc., Prudential Diversified Funds, Prudential Emerging Growth Fund, Inc., Prudential Equity Fund, Inc., Prudential Equity Income Fund, Prudential Europe Growth Fund, Inc., Prudential Global Genesis Fund, Inc., Prudential's Gibraltar Fund, Inc., Prudential Global Limited Maturity Fund, Inc., Prudential Global Total Return Fund, Inc., Prudential Government Prudential High Yield Total Return Fund, Inc., Prudential Index Series Fund, Prudential Intermediate Global Income Fund, Inc., Prudential International Bond Fund, Inc., The Prudential Investments Portfolios Fund, Inc., Prudential Mid-Cap Value Fund, Prudential Municipal Bond Fund, Prudential Natural Resources Fund, Inc., Prudential Pacific Growth Fund, Inc., Prudential Real Estate Securities Fund, Prudential Sector Funds, Inc., Prudential Series Fund, Inc., Prudential Small-Cap Quantum Fund, Inc., Prudential Small Company Value Fund, Inc., Prudential Structured Maturity Fund, Inc., Prudential Tax-Free Money Fund, Inc., Prudential Tax-Managed Equity Fund, Prudential 20/20 Focus Fund, Prudential World Fund, Inc. (collectively, the ''Prudential Public Funds''); Prudential Core Investment Fund (''Prudential Private Fund''), Cash Accumulation Trust, COMMAND Government Fund, COMMAND Money Fund, COMMAND Tax-Free Fund, Prudential Government Securities Trust, Prudential Institutional Liquidity Portfolio, Inc., Prudential MoneyMart Assets, Inc., Prudential Municipal Series Fund, Prudential National Municipals Fund, Inc., Prudential Special Money Market Fund, Inc., and Prudential Tax-Free Money Fund, Inc. (collectively, the ''Investment Funds'' and together with the Public funds, and the Prudential Separate Accounts defined below, the ''Prudential Funds''); The Prudential Variable Contract Account-2, The Prudential Variable Contract Account-10, and The Prudential Variable Contract Account-11 (collectively, the ''Prudential Separate Accounts''). Prudential Investments Fund Management LLC (the ''Manager''), the Prudential Investment Corporation (''Prudential Investments'', the Prudential Insurance Company of America (''Prudential '' and together with the Manager and Prudential Investments, the ''Adviser''), Prudential Investment Management Services LLC (the ''Distributor''), and Prudential Securities Incorporated (''PSI'').

Filing Dates

The application was filed on September 24, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing

An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 30, 1999, and should be accomplished by proof of service on applicants, in 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 Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, Gateway Center Three, 100 Mulberry Street, Newark, New Jersey 07102–4077.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or George J. Zornada,

Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102. (tel. 202–942–8090).

Applicants' Representations

1. The Prudential Funds are registered under the Act as management investment companies. All of the Prudential Funds, except the High-Yield Income Fund, In. which is a closed-end investment company, are open-end investment companies. The Prudential Private Fund does not have its shares registered under the Securities Act of 1933. Certain Investment Funds, including the Prudential Private Fund, are money market funds that comply with rule 2a–7 under the Act (''Prudential Money Market Funds''). The other Investment Funds are short-term bond funds with portfolio maturities of three years or less.

2. The Manager is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as the investment adviser to the Prudential Funds. Prudential Investments is registered under the Advisers Act and serves as sub-adviser to certain of the Prudential Funds. The Distributor is a broker-dealer registered under the Securities Exchange Act of 1934 (''Securities Exchange Act'') and serves as principal underwriter to the Prudential Funds. The Manager and Prudential Investments are wholly-owned subsidiaries of Prudential. Prudential is registered under the Advisers Act and manages the Prudential Separate Accounts. The Distributor is a limited liability company whose sole member is Prudential. PSI, a wholly-owned subsidiary of Prudential, is a broker-dealer registered under the Securities Exchange Act.

3. Prudential and Prudential Investments also advise certain institutional accounts (''Institutional Accounts''). The Institutional Accounts include qualified employee benefit plans, trusts, corporate cash accounts, offshore investment companies, foundations, Taft-Hartley Plans, endowments, and bank collective investment trusts. Certain of the Institutional Accounts are exempted from the definition of an investment company by sections 3(c)(1) and 3(c)(11) of the Act. Future Institutional Accounts may be excepted from the definition of an investment company by section 3(c)(7) of the Act.

4. Applicants also request that the relief sought apply to (i) any future registered management investment company, or registered open-end management investment company, that is a separate account, that is advised by the Advisers, or an entity controlling, controlled by, or under common control with the Adviser; (ii) any other broker-dealer registered under the Securities Exchange Act that may be controlling, controlled by, or under common control with the Distributor (''Affiliated Broker-Dealers''); (iii) an entity controlling, controlled by, or under common control with Prudential that serves as lending agent to the Lending Funds and; (iv) any future Institutional Account advised by the Advisers or an entity controlling, controlled by, or under common control with the Advisers.[1]

5. The Prudential Funds and the Institutional Accounts may have uninvested cash (''Uninvested Cash''). Uninvested Cash includes dividends or interest received from portfolio securities, cash received through dollar rolls, reserves held for investment strategy purposes, scheduled maturity of investments, liquidation of investment securities to meet anticipated redemptions and dividend payments, and new monies received from investors. Currently, the Prudential Funds can invest Uninvested Cash into a joint account[2] or the Prudential Funds and the Institutional Accounts can invest Uninvested Cash directly in money market instruments.

6. The Prudential Funds, with the exception of the Prudential Money Market Funds (collectively, the ''Lending Funds''), also propose to lend their portfolio securities to the Affiliated Broker-Dealers and other borrowers (''Borrowers''). Prudential securities lending group, an operating unit within Prudential whose employees consist of employees of PSI and other direct and indirect subsidiaries of Prudential (''Prudential Securities Lending Group''), proposes to act as lending agency for the Lending Funds.[3]

7. Prudential Securities Lending Group, among other things, will be responsible for soliciting Borrowers from a list of pre-approved eligible Borrowers, entering into loans of preapproved securities with the Borrowers on pre-approved terms, negotiate the loans, and perform other administrative functions in connection with the securities lending program. Prudential Securities Lending Group's duties will be restricted to those described in *Norwest Bank Minnesota, N.A.* (pub. avail. May 25, 1995). Prudential Investments, a sub-adviser to the Lending Funds, will be responsible for investing all cash collateral received in respect of the securities loans.[4]

8. When a securities loan is collateralized by cash, the cash collateral is invested during the loan period. After paying the Borrower an agreed upon fee or ''rebate'' from the return on the cash collateral, the Lending Fund will retain the remainder, which will be shared with the securities lending agent. In the case of collateral other than cash, the Lending Fund will receive a lending fee paid by the Borrower, which will be shared with the securities lending agent.

9. Applicants seek an order to permit (i) Prudential Securities Lending Group to serve as lending agent for the Lending Funds and to accept fees based on a share of the proceeds derived by the Lending Funds from their securities lending activities; (ii) the Lending Funds to lend portfolio securities to Affiliated Broker-Dealers; (iii) the Lending Funds and the Institutional Accounts to invest cash collateral received in connection with their securities lending activities (''Cash Collateral'') and the Prudential Funds and Institutional Accounts to invest Uninvested Cash into the Investment Funds, and (iv) the Prudential Funds to engage in certain interfund transaction.

Applicants' Legal Analysis

A. Lending Agent Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any affiliated person of such person or principal underwriter, acting as principal, from effecting any

[1] All existing entities that currently intend to rely on the order are named as applicants. Any existing or future entity that relies on the order in the future will do so only in accordance with the terms and conditions of the application.

[2] *See The Prudential Insurance Company of America*, Investment Company Act Release Nos. 17647 (Aug. 3, 1990) (notice) and 17719 (Aug. 30, 1990) (order); *Prudential-Bache Adjustable Rate Preferred Stock Fund, Inc.*, Investment Company Act Release Nos. 16279 (Feb. 18, 1988) (notice) and 16321 (Mar. 17, 1998) (order).

[3] Applicants state that the personnel who will provide day-to-day lending agency services to the Lending Funds do not and will not provide investment advisory services to the Lending Funds, or participate in any way in the selection of the portfolio securities or other aspects of the management of the Lending Funds.

[4] Any Lending Fund for which Prudential Investments does not currently serve as a Sub-Adviser will not participate in the securities lending program until a subadvisory agreement with Prudential Investments has been approved in accordance with the Act.

transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates. Rule 17d–1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d). In determining whether to approve a transaction, the Commission is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants.

2. Section 2(a)(3) of the Act defines an affiliated person to include any person directly or indirectly controlling, controlled by, or under common control with, the other person, and if the other person is an investment company, its investment adviser. The Advisers, as investment advisers or sub-advisers to the Lending Funds, are affiliated persons of the Lending Funds. In addition, as wholly-owned subsidiaries of Prudential, they may be deemed to be under common control, and therefore affiliated persons. Accordingly, applicants request an order under section 17(d) and 17d–1 under the Act to permit each Lending Fund to pay and Prudential Securities Lending Group to accept lending agent fees that are based on a share of the proceeds derived by the Lending Funds from the loans of portfolio securities.

3. Applicants propose that each Lending Fund adopt the following procedures to ensure that the proposed fee arrangement and the other terms governing the relationship with the Prudential Securities Lending Group meet the requirements of rule 17d–1:

(a) In connection with the approval of the securities lending program, and the approval of Prudential Securities Lending Group as lending agent for the Lending Funds and implementation of the proposed fee arrangement, a majority of the board of directors of each Lending Fund (''Board'') (including a majority of directors of each Lending Fund who are not ''interested persons'' as defined in section 2(a)(19) of the Act (the ''Independent Directors'')) will determine that (i) the contract with Prudential Securities Lending Group is in the best interests of the Lending Fund and its shareholders; (ii) the services to be performed by the Prudential Securities Lending Group are appropriate for the Lending Fund; (iii) the nature and quality of the services provided by the Prudential Securities Lending Group are at least equal to those provided by others offering the same or similar services; and (iv) the fees for Prudential Securities Lending Group's services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

(b) In connection with the approval of the Prudential Securities Lending Group as lending agent for the Lending Funds and the initial implementation of the proposed fee arrangement, the Board will review competing quotes with respect to lending agency fees from at least three independent lending agents to assist the Board in making the findings referred to in paragraph (a) above.

(c) Each Lending Fund's contract with the Prudential Securities Lending Group for lending agent services will be reviewed annually and will be approved for continuation only if a majority of the Board (including a majority of the Independent Directors) makes the findings referred to in paragraph (a) above.

(d) The Board, including a majority of the Independent Directors, will (i) determine at each regular quarterly meeting that the loan transactions during the prior quarter were effected in compliance with the conditions and procedures set forth in the application and (ii) review no less frequently than annually the conditions and procedures for continuing appropriateness.

(e) Each Lending Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and any modifications) described in the application or otherwise followed in connection with lending securities pursuant to the securities lending program and (ii) maintain and preserve for a period not less than six years from the end of the fiscal year in which any loan transaction pursuant to the Program occurred, the first two years in an easily accessible place, a written record of each loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, the terms of the loan transaction, and the information or materials upon which the determination was made that each loan was made in accordance with the procedures set forth above and the conditions to the application.

B. Investment of Uninvested Cash and Cash Collateral in the Investment funds

1. Section 12(d)(1)(A) of the Act provides that no investment company may acquire securities of a registered investment company if such securities represent more than 3% of the acquired company's voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security or transaction from any provision of section 12(d)(1) if, and to the extent that, such exemption is consistent with the public interest and the protection of investors. Applicants request relief under Section 12(d)(1)(J) to permit certain Prudential Funds (''Acquiring Funds'') and the Institutional Accounts that are relying on section 2(c)(1) or 3(c)(7) of the Act to invest their Cash Collateral and Uninvested Cash in the Investment Funds in excess of the limits in section 12(d)(1).

3. Applicants believe that the proposed arrangement does not result in the abuses that section 12(d)(1) was intended to prevent. Applicants state that the arrangements will not result in any layering of fees because the Investment Funds will not impose any sales load, redemption fee, asset-based distribution fee, or other service fee. The Management or Prudential Investments, as applicable, will waive advisory fees paid to it by an Investment Fund, or alternatively, the Acquiring Fund will receive a credit or other offset against its management fee in an amount equal to its proportionate share of the management fees paid by the Investment Funds in which it invests, to the extend necessary to avoid duplication of advisory fees for the Acquiring Funds as a result of their investment in the Investment Funds. Applicants also believe that the proposed arrangement will not create an overly complex fund structure. Applicants note that the Investment Funds will be prohibited from acquiring securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, unless the Investment Fund is an Acquiring Fund investing its Cash Collateral or Uninvested Cash pursuant to the requested order.

4. Section 17(a) of the Act makes it unlawful for an affiliated person of a registered investment company, or any

second tier affiliate, acting as a principal, to sell or purchase any security to or from the investment company. Because the Acquiring Funds and the Investment Funds are advised by a common investment adviser, or by investment advisers that are under common control, the Acquiring Funds and the Investment Funds may be affiliated persons. Moreover, if an Acquiring Fund owns 5% or more of an Investment Fund, the Acquiring fund may be deemed to be an affiliated person of the Investment Fund. Accordingly, applicants state that section 17(a) would prohibit the sale of shares of the Investment Funds to the Acquiring Funds, and the redemption of such shares by the Investment Funds.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act.

6. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Acquiring Funds to purchase shares of the Investment Funds. Applicants submit that the terms of the proposed transactions are reasonable and fair and do not involve overreaching. Applicants also state that shares of the Investment Funds will be purchased and redeemed at their net asset value. Applicants state that the Investing Funds will retain their ability to invest Uninvested Cash directly in money market instruments as authorized by their respective investment objectives and policies if they believe they can obtain a higher rate or return, or for any other reason. The Investment Funds have the right to discontinue selling shares to any of the Acquiring Funds or the Institutional Accounts if the Investment Fund's board of directors determines that such sale would adversely affect its portfolio management and operations.

7. Applicants submit that the Acquiring Funds' investment of Uninvested Cash and Cash Collateral in the Investment Funds will be consistent with the policy of each Acquiring Fund, as recited in its registration statement and reports filed under the Act. Applicants state that the Prudential Money Market Funds will invest only in an Investment Fund that complies with rule 2a–7 under the Act. Applicants also state that the investment of the Cash Collateral will be in accordance with the Commission staff's securities lending guidelines. Applicants state that an Acquiring Fund's aggregate investment of Uninvested Cash in the Investment Funds will not exceed 25% of the Acquiring Fund's total assets.

8. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving registered investment companies and certain of their affiliates unless the Commission has approved the transaction. Applicants state that the Acquiring Funds and the Institutional Accounts by purchasing and redeeming shares of the Investment Funds, the Advisers by acting as investment adviser or sub-adviser to the Acquiring Funds and the Institutional Accounts, and the Prudential Securities Lending Group by acting as lending agent, may be deemed participants in a joint transaction under section 17(d) and rule 17d–1 under the Act. Applicants submit that the Acquiring Funds will participate in the proposed transaction on a basis not different from or less advantageous than that of any other participant and that the transaction will be consistent with the Act.

C. Interfund Transactions

1. Applicants state that the Acquiring Funds and the Investment Funds currently rely on rule 17a–7 under the Act to engage in purchase and sale transactions involving short-term money market instruments (''Interfund Transactions''). Rule 17a–7 under the Act excepts from the prohibitions of section 17(a) the purchase or sale of certain securities between registered investment companies which are affiliated person, or second tier affiliates, of each other or between a registered investment company and a person which is an affiliated person of such company (or second tier affiliate) solely by reason of having a common investment adviser, common officers, and/or common directors. Applicants state that the Acquiring Funds and the Investment Funds could be deemed to be affiliated persons of each other by virtue of an Acquiring Fund owning 5% or more of the outstanding voting securities of an Investment Fund. Thus, applicants believe they would not be able to rely on rule 17a–7 to effect Interfund Transactions.

2. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Interfund Transactions. Applicants state that the Acquiring Funds and the Investment Funds will comply with rule 17a–7 under the Act in all respects, other than the requirement that the participants be affiliated solely by reason of having a common investment adviser or affiliated investment advisers, common officers, or common directors, solely because the Acquiring Funds and the Investment Funds might become affiliated persons within the meaning of section 2(a)(3)(A) and (B) of the Act.

D. Lending of Portfolio Securities to Affiliated Broker-Dealers

1. Section 17(a)(3) of the Act makes it unlawful for any affiliated person of or principal underwriter for a registered investment company or an affiliated person of such a person, acting as principal, to borrow money or other property from the registered investment company. Applicants state that section 17(a)(3) of the Act would prohibit Affiliated Broker-Dealers from borrowing securities from the Lending Funds.

2. As noted above, section 17(d) of the Act and rule 17d–1 under the Act generally prohibit joint transactions involving the registered investment companies and certain of their affiliates unless the Commission has approved the transaction. Applicants request relief under sections 6(c) and 17(b) of the Act exempting them from section 17(a)(3) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit the Lending Funds to lend portfolio securities to Affiliated Broker-Dealers.

3. Applicants state that each loan to an Affiliated Broker-Dealer by a Lending Fund will be made with a spread that is no lower than that applied to comparable loans to unaffiliated broker-dealers.[5] In this regard, applicants state that at least 50% of the loans made by the Lending Funds, on an aggregate basis, will be made to unaffiliated Borrowers. Moreover, all loans will be made with spreads that are no lower than those set forth in a schedule of spreads established by the Independent Directors of each Lending Fund and all transactions with Affiliated Broker-Dealers will be reviewed periodically by the officers of the Lending Funds. The

[5] A ''spread'' is the compensation earned by a fund, as lender, from a securities loan, that is in the form either of a lending fee payable by the borrower to the fund (when non-cash collateral is posted) or the excess—retained by the fund—over a rebate rate payable by the fund to the borrower (when cash collateral is posted and then invested by the fund).

Board, including a majority of the Independent Directors, also will review detailed quarterly compliance reports on all lending activity.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

A. General

1. Each Prudential Fund and each Prudential Institutional Account will be advised by the Advisers, or an entity controlling, controlled by, or under common control with the Advisers.

2. The securities lending program will comply with all present and future applicable Commission and staff positions regarding securities lending arrangements.

3. Approval of the Board, including a majority of Independent Directors, shall be require for the initial and subsequent approvals of Prudential Securities Lending Group as lending agent for a Lending Fund, for the institution of all procedures relating to the securities lending program, and for any periodic review of loan transactions for which Prudential Securities Lending Group acted as lending agent.

B. Loans to Affiliated Broker-Dealers

4. Each Lending Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) which are followed in connection with lending securities and (ii) maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan transaction occurred, the first two years in an easily accessible place, a written record of each loan transaction setting for the number of shares loaned, the face amount of the securities loaned, the fee received (or rebate remitted), the identity of the Borrower, the terms of the loan, and any other information or material upon which the finding was made that each loan made to Affiliated Broker-Dealers was fair and reasonable, and that the procedures followed in making such a loan were in accordance with the other undertakings set forth in the application.

5. The Lending Funds, on an aggregate basis, will make at least 50% of their portfolio securities loans to unaffiliated Borrowers.

6(a) All loans will be made with spreads no lower than those set forth in the schedule of spreads which will be established and may be modified from time to time by a committee of the Lending Fund's Board (''Lending Committee'') composed of Independent Directors (''Schedule of Spreads''). The Schedule of Spreads and any modifications thereto will be ratified by the full Board of each Lending Fund and by a majority of the Independent Directors.

(b) The Schedule of Spreads will set forth rates of compensation to the Lending Fund that are reasonable and fair, and that are determined in light of those considerations set forth in the application.

(c) The Schedule of Spreads will be uniformly applied to all Borrowers of the Lending Fund's portfolio securities, and will specify the lowest allowable spread with respect to a loan of securities to any Borrower.

(d) If a security is loaned to an unaffiliated Borrower with the spread higher than the minimum set forth in the Schedule of Spreads, all comparable loans to an Affiliated Broker-Dealer will be made at no less than the higher spread.

(e) The Lending Fund's securities lending program will be monitored on a daily basis by an officer of the Lending Fund who is subject to section 36(a) of the Act. This officer will review the terms of each loan to an Affiliated Broker-Dealer for comparability with loans to unaffiliated Borrowers and conformity with the Schedule of Spreads, and will periodically, and at least quarterly, report his or her findings to the Lending Fund's Lending Committee.

7. A Lending Fund will not make any loan to any Affiliated Broker-Dealer unless the income to the Lending Fund attributable to such loan fully covers the transaction costs, if any, incurred in making the loan.

8. The Board of the Lending Fund, include a majority of the Independent Directors, will determine no less frequently than quarterly that all transactions with Affiliated Broker Dealers effected during the preceding quarter were effected in compliance with the requirements of the procedures adopted by the Board and the conditions of any order than may be granted and that such transactions were conducted on terms that were reasonable and fair and will review no less frequently than annually such requirements and conditions for their continuing appropriateness.

9. The total value of securities loaned to any one broker-dealer on the approved list will be in accordance with a schedule to be approved by the Board of each Fund, but in no event will the total value of securities lent to any one Affiliated Broker-Dealer exceed 10% of the net assets of the Lending Fund, computed at market.

C. Investment of Uninvested Cash and Cash Collateral in Investment Funds

10. The Manager will waive or credit the amount of its advisory fee for each Acquiring Fund in an amount that offsets the amount of the advisory fees of the Investment Funds incurred by the Acquiring Fund.

11. No Investment Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, unless the Investment Fund is an Acquiring Fund investing its Cash Collateral or Uninvested Cash pursuant to the requested order.

12. Shares of Investment Funds sold to and redeemed by the Acquiring Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act or service fee (as defined in Rule 2830(b)(9) of the Conduct Rules of the National Association of Securities Dealers.

13. Acquiring Funds that are money market funds will not acquire shares of any Investment Fund that does not comply with the requirements of rule 2a–7 under the Act.

14. Investment in shares of the Investment Funds will be in accordance with each Acquiring Fund's respective investment restrictions and will be consistent with such Acquiring Fund's policies are set forth in its registration statement.

15. Each of the Acquiring Funds will invest Uninvested Cash in, and hold shares of, the Investment Fund only to the extent that the Acquiring Fund's aggregate investment in the Investment Funds does not exceed 25% of the Acquiring Fund's total assets. For purposes of this limitation, each Acquiring Fund or series thereof will be treated as a separate investment company.

D. Interfund Transactions

16. To engage in Interfund Transactions, the Prudential Funds will comply with rule 17a–7 under the Act in all respects other than the requirement that the parties to the transactions be affiliated persons (or affiliated persons of affiliated persons) of each other solely by reason of having a common investment adviser or investment advisers which are affiliated persons of each other, common officers, and/or common directors, solely because the Prudential Funds and the Investment Funds might become affiliated persons within the meaning of section 2(a)(3)(A) and (B) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–29652 Filed 11–12–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 15, 1999.

A closed meeting will be held on Tuesday, November 16, 1999, at 1:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

Commissioner Carey, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 16, 1999, will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: November 9, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–29776 Filed 11–9–99; 4:19 pm]

BILLING CODE 8010–01–M

SELECTIVE SERVICE SYSTEM

Computer Matching Between the Selective Service System and the Department of Education

AGENCY: Selective Service System.

ACTION: Notice.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 8 25818 (June 19, 1989)), and OMB Bulletin 89–22, the following is provided:

1. Name of participating agencies: The Selective Service System (SSS) and the Department of Education (ED).

2. Purpose of the match: The purpose of this matching program is to ensure that the requirements of section 12(f) of the Military Selective Service Act (50 U.S.C. App. 462(f)) are met.

3. Authority for conducting the matching program: Computerized access to the Selective Service Registrant Registration Records (SSS 10) enables the Department of Education to confirm the registration status of applicants for assistance under title IV of the Higher Education Act of 1965 (HEA), as amended (20 U.S.C. 1070 *et seq.*). Section 12(f) of the Military Selective Service Act, as amended (50 U.S.C. App. 462(f)), denies eligibility for any form of assistance or benefit under Title IV of the HEA to any person required to present himself and submit to registration under section 3 of the Military Selective Service Act who fails to do so in accordance with that section and any rules and regulations issued under that section. In addition, the Military Selective Service Act and section 484(n) of the HEA which allows the data match to fulfill the statement requirement specifies that any person required to present himself and submit to registration under section 3 of the Military Selective Service Act file a statement that he is in compliance with the Military Selective Service Act. Furthermore, section 12(f)(3) of the Military Selective Service Act authorizes the Secretary of Education, in agreement with the Director of the Selective Service System, to prescribe methods for verifying the statements of compliance filed by students.

Section 484(n) of the Higher Education Act of 1965, as amended (20 U.S.C. 1091), requires the Secretary of Education to conduct data base matches with the Selective Service System, using common demographic data elements, to enforce the Selective Service registration provisions of the Military Selective Service Act (50 App. U.S.C. 462(f)), and further states that appropriate confirmation of a person's registration shall fulfill the requirement to file a separate statement of compliance.

4. Categories of records and individuals covered: 1. Federal Student Aid Application File (18–11–01). Individuals covered are men born after December 31, 1959, but at least 18 years old by June 30 of the applicable award year. 2. Selective Service Registration Records (SSS 10).

5. Inclusive dates of the matching program: Commence on January 1, 2000 or 40 days after copies of the agreement are transmitted simultaneously to the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Office of Management and Budget, whichever is later, and remain in effect for eighteen months unless earlier terminated or modified by agreement of the parties.

6. Address for receipt of public comments or inquiries: Justo Gonzalez, Jr., COL EN, Director for Operations, 1515 Wilson Boulevard, Arlington, VA 22209–2425.

Gil Coronado,

Director.

[FR Doc. 99–29359 Filed 11–12–99; 8:45 am]

BILLING CODE 8015–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3501, *et seq.*) this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and it's expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 24, 1999 [FR 64, page 46222].

DATES: Comments on this notice must be received on or before December 15, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Roberta R. Fede, Office of the Secretary, office of Executive Secretariat, S–10, U.S. Department of Transportation, (202) 366–9764, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Office of the Secretary

Title: Advisory Committee Candidate Biographical Information Request.

OMB Control Number: 2105–0009.

Affected Public: Citizens applying or selected for appointment to DOT Advisory Committees.

Type of Request: Extension of a currently approved collection.

Form(s): DOT F 1120.1

Abstract: The collection of information obtained by the Advisory Committee Candidate Biographical Information Request form enables Department officials to review the qualifications of individuals who wish to serve on the Department-sponsored advisory committees and the qualifications of persons who have been recommended to serve. The collection provides uniform data for each individual and enables DOT to comply with the Federal Advisory Committee Act (Pub. L. 92–463) (5 U.S.C. App.) which requires that advisory committee membership be balanced.

Estimated Annual Burden Hours: 25 hours.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention OST Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Comments to OMB are best assured of having their full effect if OMB receives them within 30 days of publication.

Issued in Washington, DC, on November 8, 1999.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 99–29679 Filed 11–12–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33816]

David W. Wulfson, Gary E. Wulfson, Lisa W. Cota, Richard C. Szuch, and Peter A. Szuch—Continuance in Control Exemption—Washington County Railroad Company

David W. Wulfson, Gary E. Wulfson, Lisa W. Cota, Richard C. Szuch, and Peter A. Szuch, noncarrier individuals (applicants), who control, directly or indirectly, the Vermont Railway, Inc. (VTR), Clarendon & Pittsford Railroad Company (CLP), and Green Mountain Railroad Corporation (GMRC),[1] have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Washington Country Railroad Company (WCRC), a noncontiguous Class III railroad. WCRC was incorporated to operate a 14-mile line of railroad owned by the State of Vermont.[2] Of the 1,000 shares of WCRC common stock issued and outstanding, David W. Wulfson, Gary E. Wulfson, and Lisa W. Cota own 250.5 shares each and Richard C. Szuch and Peter A. Szuch own 124.25 shares each.

The applicants report that they intend to consummate the transaction in seven days. As the verified notice was filed on November 4, the effective date of the exemption is November 11, 1999 (7 days after the notice of exemption was filed).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33816, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Andrew P. Goldstein, Esq., McCarthy, Sweeney & Harkaway, P.C., 1750 Pennsylvania Avenue, N.W., Suite 1105, Washington, DC 20006.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: November 8, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–29774 Filed 11–12–99; 8:45 am]

BILLING CODE 4915–00–P

[1] *See David W. Wulfson, Gary E. Wulfson, Lisa W. Cota, Richard C. Szuch, and Peter A. Szuch—Control Exemption—Clarendon & Pittsford Railroad Company, Green Mountain Railroad Corporation, and Vermont Railway, Inc.*, STB Finance Docket No. 33607 (STB served Aug. 20, 1998). VTR and CLP are Class III railroads operating in the States of Vermont and New York. GMRC is also a Class III railroad operating in the States of Vermont and New Hampshire.

[2] *See Washington County Railroad Company'Modified Rail Certificate*, STB Finance Docket No. 33807 (STB served Nov. 3, 1999).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 28, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 15, 1999 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0005.

Form Number: IRS Form 8362.

Type of Review: Extension.

Title: Currency Transaction Report by Casinos.

Description: Casino file Form 8362 for currency transactions in excess of $10,000 a day pursuant to 31 USC 5313(a) and 31 CFR 103.22(a)(2). The form is used by criminal investigators, and taxation and regulatory enforcement authorities, during the course of investigations involving financial crimes.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 550.

Estimated Burden Hours Per Respondent/Recordkeeper:

Respondents—19 min.

Recordkeepers—5 min.

Frequency of Response: Other (as required).

Estimated Total Reporting/ Recordkeeping Burden: 56,000 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 99–29653 Filed 11–12–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 28, 1999.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before December 15, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1421.

Regulation Project Number: IA–62–93 TEMP and NPRM.

Type of Review: Extension.

Title: Certain Elections Under the Omnibus Budget Reconciliation Act of 1993.

Description: These regulations establish various elections enacted by the Omnibus Budget Reconciliation Act of 1993 (Act). The regulations provide guidance that enable taxpayers to take advantage of various benefits provided by the Act and the Internal Revenue Code.

Respondents: Business or other for-profit, Individuals or households, Farms.

Estimated Number of Respondents: 410,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 202,500 hours.

OMB Number: 1545–1466.

Regulation Project Number: None.

Type of Review: Revision.

Title: Third-Party Disclosure Requirements in IRS Regulations.

Description: This submission contains third-party disclosure regulations subject to the Paperwork Reduction Act of 1995.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents/ Recordkeepers: 245,824,890.

Estimated Burden Hours Per Respondent/Recordkeeper: Varies.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 69,927,555 hours.

OMB Number: 1545–1500.

Form Number: IRS Form 8850.

Type of Review: Extension.

Title: Work Opportunity Credit Pre-Screening Notice and Certification Request.

Description: A job applicant completes and signs, under penalties of perjury, the top portion of the form to indicate that he or she is a member of a targeted group. If the employer has a belief that the applicant is a member of a targeted group, the employer signs the other portion of the form under penalties of perjury and submits it to the State Employment Security Agency (SESA) as part of a written request for certification.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 400,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—2 hr., 47 min.

Learning about the law or the form—37 min.

Preparing the form and sending the form to the SESA—36 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 1,596,000 hours.

OMB Number: 1545–1537.

Regulation Project Number: REG–253578–96 NPRM and TEMP.

Type of Review: Extension.

Title: Health Insurance Portability for Group Health Plans (NPRM); and Interim Rules for Health Insurance Portability for Group Health Plans (Temporary).

Description: The regulations provide guidance for group health plans and the employers maintaining them regarding requirements imposed on plans relating to preexisting condition exclusions, discrimination based on health status, and access to coverage.

Respondents: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 1,300,000.

Estimated Burden Hours Per Response: Varies.

Estimated Total Reporting Burden: 591,561 hours.

OMB Number: 1545–1656.

Revenue Procedure Number: Revenue Procedure 99–31.

Type of Review: Extension.

Title: Employee Plans Compliance Programs—Acceptable Methods of Self-Correction and Closing Agreements.

Description: The information requested in this revenue procedure is required to enable the Internal Revenue Service to make determinations on the issuance of various closing agreements and compliance statements as well as to verify that plan participants have been notified by their employers. The issuance of these agreements and proper notification allows individual plans to maintain their tax-qualified status. As a result, the favorable tax treatment of the benefits of the eligible employees is retained.

Respondents Business or other for-profit, Individuals or households, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 10 hours, 48 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 10,800 hours.

OMB Number: 1545–1657.

Revenue Procedure Number: Revenue Procedure 99–32.

Type of Review: Extension.

Title: Conforming Adjustments Subsequent to Section 482 Allocations.

Description: This revenue procedure prescribes the applicable procedures for the repatriation of cash by a United States taxpayer via an interesting-bearing account receivable or payable in an amount corresponding to the amount allocated under section 482 from, or to, a related person with respect to a controlled transaction.

Respondents Business or other for-profit.

Estimated Number of Respondents: 180.

Estimated Burden Hours Per Respondent: 9 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,620 hours.

OMB Number: 1545–1660.

Notice Number: Notice 99–43.

Type of Review: Extension.

Title: Nonrecognition Exchanges under Section 897.

Description: This notice announces a modification of the current rules under Temporary Regulations § 1.897–6T(a)(1) regarding transfers, exchanges, and other dispositions of U.S. real property interests in nonrecognition transactions occurring after June 18, 1980. The new rule will be included in regulations finalizing the temporary regulations.

Respondents Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 200 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–29654 Filed 11–12–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 5, 1999

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 15, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0499.

Form Number: IRS Form 5305–SEP.

Type of Review: Extension.

Title: Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

Description: This form is used by an employer to make an agreement to provide benefits to all employees under a Simplified Employee Pension (SEP) described in section 408(k). This form is not to be filed with the IRS but to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions to the SEP. The data is used to verify the deduction.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	1 hr., 40 min.
Learning about the law or the form	1 hr., 35 min.
Preparing the form	1 hr., 41 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 495,000 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 99–29657 Filed 11–12–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 99–15]

Designation of OCC's Liaison Under the Year 2000 Act

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) has appointed Mark O'Dell, Director, Year 2000 Supervision Policy, to act as the OCC's liaison for purposes of section 18 of the Year 2000 (Y2K) Act, Pub. L. 106–37. Section 18 requires the OCC to appoint a liaison to serve as a point of contact between the OCC and small business concerns that it supervises with respect to problems arising out of Y2K failures and compliance with Federal rules or regulations. As defined by section 18(a)(3) of the Year 2000 Act, a small business concern means an unincorporated business, a partnership, corporation, association, or organization with fewer than 50 full-time employees. Mr. O'Dell, who has directed the efforts of the OCC's Year 2000 Division with regard to the Y2K readiness of OCC supervised financial institutions, will serve as the OCC's liaison. This Notice advises the public of Mr. O'Dell's appointment and provides information on how to contact him.

DATES: This appointment was effective August 19, 1999.

ADDRESSES: Mr. O'Dell can be contacted as follows: Mark O'Dell, Director, Year 2000 Supervision Policy, (202) 874–2340, Office of the Comptroller of the Currency, 250 E Street SW, Washington DC 20219. You may e-mail Mr. O'Dell at mark.odell@occ.treas.gov.

FOR FURTHER INFORMATION CONTACT: James Gillespie, Assistant Chief Counsel (202)874–5200, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

Dated: November 8, 1999.

Karen Solomon,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 99–29650 Filed 11–12–99; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

Notice of Meeting

AGENCY: Federal Law Enforcement Training Center, Treasury.

ACTION: Notice.

SUMMARY: The Advisory Committee to the National Center for State and Local Law Enforcement Training at the Federal Law Enforcement Training Center will meet on December 1, 1999. The agenda for this meeting includes remarks by the Committee Co-Chairs,

Karen Wehner, Deputy Assistant Secretary (LE), Department of the Treasury, and Laurie Robinson, Assistant Attorney General, Office of Justice Programs, Department of Justice; progress reports on initiatives and training programs; and presentations on collaborative programs with the National Center.

FOR FURTHER INFORMATION CONTACT: Hobart M. Henson, Director, National Center for State and Local Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, GA 31524, 912–267–2322.

Dated: October 7, 1999.

Hobart M. Henson,

Director, National Center for State and Local Law Enforcement Training.

[FR Doc. 99–29669 Filed 11–12–99; 8:45 am]

BILLING CODE 4810–32–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–10: OTS No. 3695]

Security Federal Bank, A Federal Savings Bank, St. John, IN; Approval of Conversion Application

Notice is hereby given that on November 4, 1999, the Director, Office of Examination & Supervision, Office of Thrift Supervision, or his designee, acting pursuant to delegated authority, approved the application of Security Federal Bank, A Federal Savings Bank, St. John, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: November 9, 1999.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 99–29728 Filed 11–12–99; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register

Vol. 64, No. 219

Monday, November 15, 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 THE INTERIOR

Bureau of Land Management

[AZA 30390]

Public Land Order No. 7414; Withdrawal of National Forest System Land for Hassayampa River Riparian Corridor; Arizona

Correction

In notice document 99–26678 beginning on page 55305 in the issue of Tuesday, October 12, 1999, make the following correction:

On page 55305, in the third column, in the 20th and 21st lines from the bottom, ''Sec. 21, lots 1 to 4, inclusive, SE¼SW¼SE¼, and SE¼SE¼;'' should read ''Sec. 21, lots 1 to 4, inclusive, SE¼SW¼, SW¼SE¼, and SE¼SE¼;''.

[FR Doc. C9–26678 Filed 11–12–99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 228, 229, 230, 239, 240, 249 and 260

[Release Nos. 33-7745; 34-41936; International Series Release No. 1205; File No. S7-3-99]

RIN 3235-AH62

International Disclosure Standards

Correction

In rule document 99–25699, beginning on page 53900, in the issue of Friday, October 5, 1999, make the following correction:

On page 53925, in the second column, above the fifth line from the bottom, add ''September 28, 1999''.

[FR Doc. C9–25699 Filed 11-12-99; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41984; File No. SR-NYSE-99-37]

Self-Regulatory Organization; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. to Revise the Uniform Application for Securities Industry Registration or Transfer (Form U-4) and Uniform Termination Notice for Securities Industry Registration (Form U-5)

October 6, 1999.

Correction

In notice document 99–26893 beginning on page 56005, in the issue of Friday, October 15, 1999, make the following correction:

On page 56005, in the third column, after the subject line, the date is corrected to read as set forth above.

[FR Doc. C9–26893 Filed 11-12-99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Monday
November 15, 1999

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 679

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981224323–9226–02; I.D. 120198B]

RIN 0648–AL23

Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to revise permitting, recordkeeping, and reporting requirements for fisheries of the Exclusive Economic Zone (EEZ) off Alaska. These revisions are necessary to clarify and simplify existing text, facilitate management of the fisheries, promote compliance with the regulations, and facilitate enforcement efforts. This action is intended to further the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska and of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs).

DATES: Effective December 15, 1999.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the groundfish fisheries in the EEZ off Alaska under authority of the FMPs prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C., 1801 *et seq.* The FMPs are implemented by regulations at 50 CFR part 679. General regulations that also pertain to these fisheries appear in subpart H of 50 CFR part 600.

On February 5, 1999, NMFS published proposed revisions to several sections of the implementing regulations for these FMPs that pertain to permitting, recordkeeping, and reporting (64 FR 5868). Public comment was invited through February 22, 1999. No letters of comment were received by the end of the comment period; however, many verbal comments were received at five recordkeeping and reporting (R&R) workshops conducted by NMFS and the U.S. Coast Guard (USCG) for the fishing industry in Alaska and Washington State, November 1998 through January 1999. NMFS responds to these comments in the Response to Comments section of this document.

While some of the revisions are substantive, most are technical edits and clarifications of definitions. Most of these changes are needed to simplify the language. A description of the revisions and their justification are presented in the preamble to the proposed rule and are not repeated here.

Changes to the Final Rule From the Proposed Rule

The final rule includes the following changes from the proposed rule:

Definitions (§ 679.2)

The following definitions in § 679.2 are revised.

ADF&G fish ticket number. The term ''ADF&G fish ticket number'' is revised by removing the words ''groundfish series of fish tickets'' and ''(i.e., G)'' and by adding in their place ''(i.e., G = groundfish).''

Authorized fishing gear. The term ''authorized fishing gear'' is revised by removing the text ''paragraph 679.24'' and by adding in its place ''§ 679.24.''

Fishing trip. Paragraph (1) of the term ''fishing trip'' is revised by removing the words ''groundfish directed fishing closures,'' adding the text ''MRB,'' and by placing pollock roe stripping under the new heading ''retention requirements.'' NMFS inadvertently omitted roe stripping from the term ''fishing trip.'' In February 1996, BSAI regulations at § 675.20(j)(4) established a pollock roe fishing trip definition by cross-referencing it to the fishing trip definition at § 672.20(h)(2). After several final rules, a major regulatory consolidation rule, aiming at centralizing all definitions under § 679.2, inadvertently removed the link between pollock roe and a fishing trip.

This final rule corrects previous regulatory actions and standardizes the definition of fishing trip for all the retention requirements (maximum retainable bycatch amounts (MRB), Increased Retention/Increased Utilization (IR/IU), and pollock roe stripping) by adding pollock roe retention to paragraph (l) of the definition for fishing trip. The difference between a roe fishing trip and an MRB fishing trip is that an MRB fishing trip is triggered anytime there is a closure to any species within the same area. Roe fishing trips are not triggered by the closure of another groundfish species. Because pollock roe can only be retained against pollock, the status of other fisheries is not relevant. For example, fishermen cannot retain pollock roe against Pacific cod; however, fishermen can retain pollock roe against incidental pollock catch that are retained under an MRB for pollock while in a Pacific cod fishery. No adverse effect is anticipated from using the same definition of fishing trip for MRBs, IR/IU, and roe stripping. As a result of this change, a new fishing trip will be triggered more often with respect to roe stripping, which will mean less opportunity to top off with pollock roe.

Steller Sea Lion Protection Areas. Due to changes resulting from emergency rulemaking to protect Steller sea lions, the term ''Steller Sea Lion Protection Areas'' is revised by removing the text ''(see Figure 16 to this part, § 679.22(g) of this part, and § 227.12 of this title)'' and by adding in its place ''(see § 679.22(a)(7), (a)(8), and (b)(2) and § 227.12 of this title).''

Permits (§ 679.4)

The heading of § 679.4(e) is revised from ''Halibut/sablefish CDQ permits and CDQ cards'' to read ''Halibut CDQ permits and CDQ cards'' and the cross reference in the heading is revised from ''679.33(a) and (b)'' to read ''679.32(f).''

Recordkeeping and Reporting (§ 679.5)

NMFS received and agreed with many verbal comments received at five R&R workshops conducted by NMFS'' Alaska Region Sustainable Fisheries Division staff and the USCG's North Pacific Regional Fisheries Training Center instructors. Comments that were non-substantive changes were integrated into the regulatory text in this rule. For example, where the regulatory text was identified as too complicated, the regulations were converted into table form without changing the substance. Also, details of instructions for a single topic formerly found in several places throughout the regulations were reorganized for simplicity. These suggestions agree with the recent Presidential Memorandum on Plain Language.

Section 679.5(a)(1). The heading of § 679.5(a)(1)(v) is revised by removing the text ''IFQ sablefish or halibut fisheries'' and adding ''IFQ sablefish or IFQ/CDQ halibut fisheries'' in its place, and by removing the words ''in an IFQ fishery in addition'' and adding in their place ''in an IFQ fishery or halibut CDQ fishery in addition.''

Groundfish logbooks and forms (§ 679.5(a)(4)). Paragraph (a)(4) is revised. Section 679.5(a)(4)(i) is divided into three new paragraphs (a)(4)(i), (ii), and (iii). Paragraph (a)(14)(ii)(B) is

redesignated as new paragraph (a)(4)(iii).

Maintenance of records (§ 679.5(a)(6)). Paragraph (a)(6) is revised to include a section on product and species codes (see description under ''Table 1'' and ''Table 2'' to this preamble). Paragraphs (a)(4)(ii) and (iii), which describe R&R requirements after reinstatement of a permit, are redesignated as new paragraphs (a)(6)(ii)(A) and (B), respectively.

Active and inactive periods (§ 679.5(a)(7)). In response to an R&R workshop comment that ''active, no-fishing periods'' be treated the same as ''inactive periods'' in the logbooks, § 679.5(a)(7)(ii) is revised to allow the use of one logsheet to indicate a period of more than 1 day when a participant is active (''active'' for a catcher vessel means the vessel is in a reporting area) but not conducting fishing activity.

Section 679.5(a)(7)(iii) is revised so that ''START'' and ''END'' date boxes may be used to record the first day and last day that a participant is active but not conducting fishing. For example, a catcher vessel participating as a tender in an Alaska State fishery would check this box.

Section 679.5(a)(7)(v)(E) is revised to instruct that the CDQ delivery number in the groundfish daily fishing logbook (DFL) be recorded in the blank area in the ''Identification section'' instead of under ''vessel name'' at the top of the logsheet.

Product information (§ 679.5(a)(9)). Sections 679.5(a)(9)(ii)(B) and (a)(9)(iii) are revised to include reporting requirements on the occasion when a catcher/processor or mothership offloads or transfers all fish or fish product before the end of a weekly reporting period.

Inspection and retention of records (§ 679.5(a)(13)). To improve a logical sequence within the regulations, existing text is moved within and between paragraphs (a)(13) and (a)(14). The heading of paragraph (a)(13) is revised from ''Inspection of records'' to read ''Inspection and retention of records'', and paragraph (a)(13) is revised to include both inspection and retention of records. No new requirements are added by this change. Introductory paragraph (a)(13) is redesignated as paragraph (a)(13)(i). Paragraph (a)(14)(vii) is redesignated as (a)(13)(ii). The last sentence of paragraph (a)(14)(iv)(B)(*2*)(*ii*) is redesignated as (a)(13)(D)(*3*), and paragraphs (a)(14)(iv)(C)(*3*) and (a)(14)(iv)(O) are redesignated as (a)(13)(D)(*5*) and (a)(13)(F), respectively.

Submittal and distribution of logbooks and forms (§ 679.5(a)(14)). Paragraph (a)(14) is revised; information on retention of records is moved to paragraph (a)(13). The heading of paragraph (a)(14) is revised from ''Submittal, retention, and distribution of logbooks and forms'' to read ''Submittal and distribution of logbooks and forms.''

Delivery information for buying station, mothership, and shoreside processor (§ 679.5(a)(15)). Paragraph (a)(15) is revised. Paragraph (a)(15)(ii) is removed because it described requirements for use with ''gear type = PTR transfer'; these requirements were removed in previous rules. Paragraphs (a)(15)(iii) through (x) are redesignated to read as (a)(15)(ii) through (ix), respectively. Newly designated paragraph (a)(15)(ii) is revised into table format. Newly designated paragraph (a)(15)(vii) is corrected by adding a new paragraph (a)(15)(vii)(B) that was inadvertently omitted from the proposed rule and that requires motherships to record IR/IU pollock and Pacific cod by round catch weight.

New combined catcher vessel and catcher/processor groundfish/IFQ logbooks (§ 679.5(c)). In response to a CDQ Program request, a new § 679.5(c)(3)(E)(*8*) is added regarding CDQ halibut, and paragraphs (c)(3)(E)(*8*) through (*11*) are redesignated as (c)(3)(E)(*9*) through (*12*), respectively.

In response to an International Pacific Halibut Commission (IPHC) comment, newly designated paragraphs § 679.5(c)(3)(E)(*9*) and (*10*) are revised to clarify that, in the newly combined catcher vessel and catcher/processor groundfish/IFQ logbooks, both the weight and the number of sablefish animals must be recorded; in addition, the weight description must be indicated as Western cut, Eastern cut, or round weight.

In response to the recent Plain Language guidelines to simplify regulatory text, paragraphs that refer to a single gear type are combined as follows:

Regarding pot gear, remove § 679.5(c)(3)(i)(B)(*3*); revise (c)(3)(i)(B)(*2*); and add (c)(3)(i)(B)(*2*)(*i*) and (*ii*).

Regarding hook-and-line gear, redesignate § 679.5(c)(3)(i)(B)(*4*) as § 679.5(c)(3)(i)(B)(*3*).

Regarding fixed hook (conventional or tub), autoline, or snap gear, remove § 679.5(c)(3)(i)(B)(*4*)(*iii*)(*A*); redesignate and revise paragraph § 679.5(c)(3)(i)(B)(*4*)(*i*) as § 679.5(c)(3)(i)(B)(*4*); add new paragraph (c)(3)(i)(B)(*4*)(*i*); revise paragraphs (c)(3)(i)(B)(*4*)(*ii*) and (*iii*); and redesignate paragraph (c)(3)(i)(B)(*4*)(*iii*)(*B*) as paragraph (c)(3)(i)(B)(*4*)(*iv*).

Section 679.5(c)(3)(i)(E) is revised to instruct the operator to enter amounts of CDQ halibut, when applicable, separately from IFQ halibut when recording in the groundfish/IFQ DFL or daily cumulative production logbook (DCPL) in the column entitled ''IFQ halibut.''

Section 679.5(c)(3)(i)(E)(*7*) is revised, and a new paragraph (E)(*8*) is added to include CDQ halibut.

Paragraphs (c)(3)(i)(E)(*7*) and (*8*), which describe set and haul information, are revised to indicate that halibut is recorded in net weight.

To correct a paragraph misdesignation in § 679.5, the second paragraph (c)(3)(v) entitled ''Comments'' is redesignated as paragraph (c)(3)(vi).

Groundfish product transfer report (§ 679.5(g))

Section 679.5(g)(1)(i). Paragraph (g)(1)(i) is revised by correcting the wording of the cross reference from ''(g)(1)(iv)'' to read ''(g)(1)(v).''

Check-in/check-out report (§ 679.5(h)).

Section 679.5(h)(1)(iii). Section 679.5(h)(1)(iii) ''Fishing for groundfish CDQ species'' is removed (formerly added in the proposed rule as a CDQ revision) because it duplicates information at paragraphs(h)(2)(i)(C) and (h)(2)(ii)(F).

Section 679.5(h)(2)). In response to industry comments at the R&R workshops and comments from the USCG, revisions were made at § 679.5(h)(2)(i)(B) to allow catcher/processors to check-in to two areas at the same time, an action that would remove the necessity for catcher/processors to check-in and check-out multiple times a day if crossing back and forth across the same reporting area boundary.

For example, the operator of a catcher/processor who intends to fish in and out of two adjacent reporting areas and has determined that the two reporting areas have, on that day and time, an identical fishing status for every species would do the following: Check-in to the first area. Before entering the second area, the operator would submit a check-in to that second area, but not a check-out from the first area unless the vessel proceeded beyond 10 nautical miles (18.5 km) from the boundary. If the vessel proceeded in the second area beyond 10 nautical miles (18.5 km), the operator would have to submit a check-out from the first area or incur a violation. If the vessel stayed within 10 nautical miles (18.5 km) of the boundary in the second area and crossed back and forth between the first

and second areas, the operator would not check out of either until leaving the areas.

Buying Station Check-in and Check-out Reports. In response to various but negative legitimate comments on the procedure for buying station check-in and check-out reports, NMFS removes the requirement for buying stations, either land-based or vessel (tender), to submit check-in or check-out reports. In order to accomplish this, the definition of active and inactive periods for a buying station is removed; a buying station does not need to be checked in to be active. The operator or manager of a buying station must continue to account for every fishing day of the year and to record all fishing activity in the buying station logbook. Other sections of the regulations are revised to remove buying stations from the check-in and check-out requirements.

Paragraphs 679.5(h)(2) and (h)(3) are reformatted and revised; the former section (h)(3) is redesignated as (h)(4) and revised. Former section (h)(2) ''time limits and submittal'' is divided into two new paragraphs (h)(2) ''time limits and submittal, check-in report'' and (h)(3) ''time limits and submittal, check-out report''; paragraph (h)(2)(i)(A) ''Catcher/processor'' becomes (h)(2)(i); (h)(2)(i)(B) becomes (h)(2)(ii), is revised, and its heading is changed to read ''Mothership or shoreside processor;'' (h)(2)(ii)(A) becomes (h)(3)(i) ''Catcher processor;'' (h)(2)(ii)(B) becomes (h)(3)(ii) and is revised; (h)(2)(ii)(C) becomes (h)(3)(iii) and is revised; (h)(2)(ii)(D) is removed, and its text is included in (h)(3)(ii); (h)(2)(ii)(E) becomes (h)(3)(iv); (h)(2)(ii)(F) becomes (h)(3)(v) and is revised.

A new section (h)(2)(i)(C) is added to address requirements for submittal of a check-in/check-out report from a catcher/processor using other than hook-and-line gear and fishing back-and-forth between two adjacent reporting areas.

Section (h)(3)(iii)(B) is added to provide an operator or manager the option of submitting a WPR stating ''no production'' rather than a check-out report during a temporary stay of receipt or production of groundfish. Although not previously in the regulations, this practice has been occurring for several years.

U.S. Vessel Activity Report (VAR) (679.5(k)). In response to USCG and fishing industry comments, NMFS determined that the requirement for submittal of the VAR should be decreased from an overall requirement for all vessels and limited to (1) vessels crossing the seaward boundary of the EEZ off Alaska or the U.S.-Canadian international boundary between Alaska and British Columbia with fish or fish product onboard; (2) vessels that are departing to or returning from fishing at the GOA Seamounts (and, therefore, crossing the EEZ off Alaska) regardless of whether fish or fish product is onboard; and (3) vessels that are departing to or returning from fishing in the Russian Zone regardless of whether fish or fish product is onboard.

In addition, in response to USCG and fishing industry comments concerning duplication of information, NMFS has reevaluated the submittal requirements for the groundfish VAR when an operator or manager is dealing with the IFQ program. This final rule exempts the operator of a vessel from submitting a VAR when only IFQ halibut and/or IFQ sablefish are onboard and the operator has received a Vessel Clearance (VC) per section 679.5(l)(5)(iii) or when only IFQ halibut and/or IFQ sablefish are onboard and the operator has submitted a Vessel Departure Report (VDR) per § 679.5(l)(5)(iii)(B). However, if a vessel is carrying IFQ halibut or IFQ sablefish with other Federal groundfish species onboard, the operator must continue to submit a VAR in addition to a VDR or a VC.

Consolidated weekly ADF&G fish tickets from mothership (§ 679.5(m)). One R&R workshop participant noted that no allowance is made for reporting receipt of codends in metric tons when completing a mothership fish ticket, and the participant requested a change in the regulatory text to allow recording weight of groundfish in the mothership fish ticket in metric tons as well as in pounds. The Alaska Department of Fish and Game (ADF&G) fish ticket system uses pounds in the data base. ADF&G does the data entry from the fish tickets and has determined that confusion often results when participants are allowed to report weight in either pounds or metric tons and that NMFS should not change the system. Therefore, NMFS adds a statement in § 679.5(m) that participants convert groundfish weight from metric tons to pounds before completing the fish tickets.

Several comments were received at the R&R workshops that the regulatory text on mothership fish ticket requirements was unclear. In response to those comments and in conformance to the recent Plain Language guidelines, § 679.5(m) is reformatted and is revised to clarify requirements and simplify regulatory language.

A comment from the USCG suggested that the distribution of mothership fish tickets be added to the regulatory text; this suggestion is incorporated into § 679.5(m).

A comment from ADF&G suggested that the ADF&G statistical area is necessary for data entry of the ADF&G fish ticket. This suggestion is incorporated as a requirement for catcher vessels under § 679.5(m). Positional information is available as part of the catcher vessel's daily information recording.

Groundfish CDQ fisheries (§ 679.5(n)). Paragraphs 679.5(n)(1) and (n)(2) are revised to include requirements for the ''operator of each vessel of the United States operating solely as a mothership in Alaska State waters'' in addition to the shoreside processor because this category of vessel operates essentially the same as a shoreside processor.

Section 679.5(n)(1)(iii)(C) is revised.

Paragraphs (1)(iii)(C)(*2*), (D)(*1*), and (D)(*2*) are redesignated as (n)(1)(iii)(D), (D)(*2*), and (D)(*3*) and revised.

The heading of § 679.5(n)(1)(iii)(D) is revised to read ''CDQ catch''; paragraphs (n)(1)(iii)(D)(*1*) and (*2*) are revised, and paragraph (n)(1)(iii)(D)(*3*) is removed.

Paragraphs(n)(1)(iii)(E) and (F) are revised.

Section 679.5(n)(1)(iii)(G) is added.

Paragraphs (n)(2)(i) through (iii) are redesignated to read (n)(1)(ii) through (iv); a new paragraph (n)(2)(i) is added; newly designated paragraphs (n)(2)(ii), (n)(2)(iii)(C), (n)(iv), (n)(iv)(B), (n)(iv)(C), (n)(iv)(D), (n)(iv)(E), and (n)(v) are revised.

Prohibited Species Bycatch Management (§ 679.21)

In § 679.21(e)(7)(vi)(A), a cross reference is corrected by removing the words ''paragraph (e)(7)(v)(B)'' and adding ''paragraph (e)(7)(vi)(B)'' in their place, and by removing the words ''Figure 4 of this part'' and adding the words ''Figure 4 to this part'' in their place.

Gear Limitations (§ 679.24)

In § 679.24, paragraphs (b)(1)(i) and (ii) are removed for placement under the definition for authorized fishing gear, pot gear (§ 679.2); paragraph (b)(1)(iii) is redesignated as paragraph (b)(1); paragraphs (b)(1)(iii)(A) and (B) are redesignated as paragraphs (b)(1)(i) and (ii); and the table title in paragraph (e)(3)(iv) is revised by removing the text ''(e)(2)(iv)'' and adding ''(e)(3)(iv)'' in its place.

Equipment and Operational Requirements for Catch Weight Measurement (§ 679.28).

In § 679.28, a sentence that was inadvertently removed in the proposed rule is added at the end of paragraph (b)(5)(i).

Community Development Quota Program (CDQ) (§ 679.30)

Proposed changes withdrawn. The proposed changes to §§ 679.30(a)(5)(i)(B) and 679.32(e), (f)(3), (f)(7), (f)(8), and (f)(9), published in the **Federal Register** (64 FR 6025, February 8, 1999), are not included in this final rule.

Various other changes made to clarify requirements in the CDQ program are as follows:

CDQ reserve (§ 679.31)

Section 679.31(b)(3) is revised to add a closing parenthesis after the last word ''part'' of the paragraph.

Estimation of Total Pollock Harvest in the CDQ Fisheries (§ 679.32)

Paragraphs 679.32(c)(3) and (d)(1) are revised to remove reference to buying stations and to include requirements for the ''operator of each vessel of the United States operating solely as a mothership in Alaska State waters'' in addition to the shoreside processor.

Paragraphs 679.32(c)(4) and (c)(4)(iii) are revised to specify a mothership that takes delivery of unsorted codends from catcher vessels.

The heading of § 679.32(d)(2)(v) is revised by removing the words ''Catcher/processor using trawl gear and motherships'' and adding ''Catcher/processors using trawl gear'' in their place.

Uniform Paragraph Citations

In § 679.5, paragraphs (a)(3)(iii), (a)(7)(v)(A)(*1*), (a)(7)(v)(B), (c)(2)(i)(C), (c)(2)(ii)(D), (c)(3)(iv)(D), (d)(2)(iv), (e)(2)(v), (f)(2)(v), (n)(1)(ii)(A), (n)(2)(ii)(C)(*1*), (n)(2)(iv)(B), (n)(2)(iv)(C), (n)(2)(iv)(D), (n)(2)(iv)(E) and, in § 679.32, paragraphs (c)(1) and (f)(8), are corrected by making several paragraph citations uniform and consistent.

Tables

Table 1—Product codes. In response to several discussions at the R&R workshops, in § 679.5, paragraph (a)(6)(iii)(F) is added to discuss the appropriate use of various product codes, particularly with the advent of the prototype electronic reporting system running parallel to the regular R&R system and also with the changes in the 1999 logbook formats. NMFS specifies in this rule the use of particularly the following product codes listed in Table 1 to this part and where to record them: discard codes 96, 98, and 99; prohibited species donation code 86; offsite meal production code 41; fish oil code 33; whole fish codes 02, 92, 93, and 95; other retained product code 97; and IFQ product codes 04, 05, 54, 55, 57, and 58.

Table 2—Species codes. In response to an R&R workshop comment, Table 2 to this part, which lists species codes and incorporates ADF&G-managed species into NMFS' data system, is revised to indicate which of the species listed are federally managed species and make it an option rather than a requirement to record non-federally managed species. NMFS' intention for use of the expanded list is to provide a uniform coding system with ADF&G's fish tickets and to simplify calculations for MRBs. Asterisks and a footnote are added to the ADF&G species codes listed on Table 2 to this part that are non-federally managed species. In addition, two prohibited species codes are added at the request of ADF&G: code 933-grooved Tanner crab and code 934-triangle Tanner crab. In § 679.5, paragraph (a)(6)(iii)(G) is added to discuss the use of species codes.

Table 3—Product recovery rates. The species and product codes presented on Table 3 to this part, which lists product recovery rates, are revised to agree with the codes in Tables 1 and 2 to this part. The subdivisions of target species by Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands (BSAI) are removed because all species codes are valid in both areas. All of the species codes are listed in numerical order. Footnotes are added to indicate that all rockfish have the same values and that flatfish other than those identified separately have the same values. In addition, the footnote describing halibut conversion rates is revised by removing the words ''product weight of Pacific halibut'' and adding in their place ''net weight of Pacific halibut;'' and by removing ''the round weight of halibut'' and adding in their place ''the landed weight of halibut.''

Product code 97—other retained product—describes products created by the fishing industry that are not standard products. In these instances the fishing industry determines and records the product recovery rate (PRR) of the product for their own business purposes. NMFS is requiring through this final rule that the PRR determined by the operator for the code 97 product be recorded next to the code number and product description in the DCPL to eliminate problems created in verification of on board fish product amounts during an audit by the USCG.

Tables 4, 5, and 6—Steller Sea Lion protection areas. Tables 4, 5, and 6 to this part list Steller Sea Lion protection areas in the BSAI and GOA. In the proposed rule, these tables were proposed to be removed and the information within them combined into a new table of coordinates for a new Figure 16 to this part. These changes, having been incorporated into § 679.22 (a)(7), (a)(8), and (b)(2), are withdrawn due to an extension and revision of an emergency interim rule for Steller Sea Lion Protection (64 FR 39087, July 21, 1999). NMFS anticipates that future changes to Steller Sea Lion conservation measures will be addressed under subsequent rulemaking.

Table 5—Aleutian Islands Subarea Steller Sea Lion Protection Areas. Table 5 to this part is corrected by removing the text ''Agattu/Gillion Pt.'' and adding ''Agattu/Gillon Pt.'' in its place. The footnote is relocated to the bottom of the table and is revised to agree with the footnote in Tables 12 and 13 to this part, which also present coordinates for Steller Sea Lion Protection Areas.

Tables 7 through 11. Tables 7 through 11 to this part were proposed to be redesignated as Tables 4 through 8 to this part, respectively. Due to NMFS' determination not to remove Tables 4 through 6 to this part at this time, Tables 7 through 11 to this part are not redesignated.

Table 8—Harvest zone codes. Table 8 to this part is revised by adding two harvest zones to describe state waters of Alaska and state waters other than Alaska. This action is necessary to fully describe the harvest area of fish product onboard a processor vessel, particularly as reported on a vessel activity report at § 679.5(k) and mothership or catcher/processor groundfish product transfer report.

Table 9—Required logbooks, reports, and forms from participants in the Federal groundfish fisheries. Table 9 to this part is revised by adding asterisks and a footnote to explain that there are two different formats of the DFL and catcher/processor DCPL: a non-IFQ groundfish logbook and a combined groundfish/IFQ logbook.

Table 12—Steller sea lion protection areas in the Bering Sea Subarea. Table 12 to this part is revised by relocating the footnote to the bottom of the table and by removing two superscript numbers from the title and note.

Table 13—Steller sea lion protection areas in the Gulf of Alaska. Table 13 to this part is revised by relocating the footnote to the bottom of the table and by removing two superscript numbers from the title and note.

Table 14—IFQ primary ports. A new Table 9 to this part, proposed to list the primary IFQ ports, formerly an in-text table at § 679.5(l)(3)(viii), is added as Table 14 to this part, due to NMFS' determination not to remove Tables 4 through 6 to this part at this time.

Table 15—IFQ/CDQ Gear Codes. A new Table 10 to this part, proposed to present the IFQ/CDQ gear codes and descriptions needed for electronic submittal of IFQ reports, is added as Table 15 to this part, due to NMFS' determination not to remove Tables 4 through 6 to this part at this time. In addition, gear codes 06 (hook-and-line, vessel length overall (LOA) less than 60 ft) and 09 (pot, vessel LOA less than 60 ft) are removed from the table, since these two codes are outdated and were removed also by ADF&G from its gear code list; NMFS and ADF&G have agreed to keep the code lists the same when possible.

Figures

Figures 1, 3 through 5, 7, and 10 through 15. Figures 1, 3 through 5, 7, and 10 through 15 are revised to reformat these figures. No other changes are made to the graphics.

Figures 2, 8, and 9. Figures 2, 8, and 9 to this part are revised to correct the graphic of the Catcher Vessel Operational Area (CVOA). The proposed text was correct on these figures, but the proposed graphic erroneously showed the western boundary of the CVOA as 168°; the correct boundary is 167° 30.

Figures 16, 17, and 18. A new Figure 16 to this part was proposed to present the Steller Sea Lion Protection Areas in the EEZ off Alaska, combining the GOA and BSAI coordinates from Tables 4, 5, and 6 to this part. Due to NMFS' determination not to remove Tables 4 through 6 to this part at this time, Figure 16 is removed.

Figures 17 and 18 to this part were proposed to present the BSAI *C. opilio and C. bairdi* Tanner crab and the BSAI king crab endorsement areas for the upcoming License Limitation Program. Due to NMFS' determination not to remove Tables 4 through 6 to this part at this time, the proposed Figures 17 and 18 are added as Figures 16 and 17 to this part, respectively.

Response to Comments

The following comments were received in (1) written form and (2) oral presentation during the comment period and during public workshops outside of the proposed rule comment period.

Comment 1: Vessel buying stations. Vessel buying stations that deliver to a shoreside processor often make multiple trips during a day to receive groundfish in one reporting area and must transit through another reporting area each time to get back to shore. This procedure requires a lot of paperwork because it demands a check-out report from the receiving area prior to crossing into the second area and a check-in report upon returning to the receiving area. The regulations should be changed to one check-in at the beginning of receipt of fish in the same reporting area and to one check-out for that reporting area when fish are no longer received in that reporting area.

Response: NMFS originally thought that knowing the number and activity of the buying station would help to determine effort in a fishery, particularly in a buying station working with a shoreside processor. NMFS has now determined that the check-in/check-out reports from a buying station do not provide information important to quota monitoring and, in this final rule, has eliminated them for all buying stations.

Comment 2: Land-based buying station. If a land-based buying station does not have to check-in and check-out, how will NMFS determine whether the buying station is active or inactive?

Comment: NMFS originally thought that knowing the number and activity of the buying station would help to determine effort in a fishery, particularly in a buying station working with a shoreside processor. NMFS has now determined that the check-in/check-out reports from a buying station do not provide information important to quota monitoring and, in this final rule, has eliminated them for all buying stations.

Comment 3: Electronic reporting (ER). When participating in the voluntary ER, reports and WPRs should be allowed to be submitted either electronically or by fax for convenience because ER software may be installed on only one computer that may not always be accessible.

Response. The ER program is a voluntary program; however, check-in/check-out reports and WPRs are required to be submitted in the manner and within time periods specified in regulations. The ER program offers the convenience of sending an electronic file to NMFS through a computer modem or as an attachment to an e-mail message. While it is possible to submit a report via a combination of the ER, fax, or e-mail, it is likely to cause R&R records to be incomplete. For example, if a mothership or catcher/processor sent in a check-in report via the ER but sent the check-out by fax, the ER system would still show them checked in. Or, if a processor submitted a hand-written WPR, it would not be in the ER at all. In emergency situations, NMFS can accommodate both ER and fax submissions, but wishes to avoid this practice because the resulting inefficiencies and errors can undermine the overall intent of ER.

Comment 4: Electronic reporting. When participating in the voluntary ER program and printing ER forms from the computer screen, the form covering three different screens, takes up three printed sheets. Our company, which conserves storage space whenever possible, hand-copies the reports onto a single sheet and files it in a notebook. We request that NMFS create the ER form to print out on a single sheet.

Response: Because the ER program still is in a prototype status, many features are not available, including being able to print all three screens on one page. NMFS will work toward this printing feature in the future.

Comment 5: Electronic reporting. Some companies wait until boarded by the USCG or NMFS to print paper copies of the ER reports. USCG has informed the industry that these reports should be printed before enforcement personnel come aboard.

Response. NMFS' intention is that the ER forms be printed at the time they are created to avoid confusion and to prevent delays in boarding situations. The ER program is still in a prototype status, and many features not available at this time. As a prototype, regulations do not require this specific procedure. However, existing regulations require that paper copies of all reports submitted during the current year, whether ER or non-ER, be maintained onboard a vessel or in a shoreside plant, in paper form, and be provided on the request of USCG or NMFS Enforcement.

Comment 6: ADF&G fish ticket numbers. Some of the column widths in the groundfish logbooks and in the WPR are not sufficient to record the ADF&G fish ticket number.

Response. NMFS will consider this format change in the design of the year 2000 logbooks and forms; because the inclusion of the many items needed for management, space is at a premium.

Comment 7: Non-IFQ catcher vessel and catcher/processor logbooks. The blank spaces in the catcher vessel and catcher/processor groundfish logbooks are confusing and wasteful. NMFS should redesign the logsheets to better use this space.

Response. For 1999, NMFS published two combined logbook versions, a groundfish version and an IFQ/groundfish version, of both the catcher vessel DFL and the catcher/processor DCPL. The new groundfish/IFQ DFL and DCPL were created in cooperation with the International Pacific Halibut Commission (IPHC) and are for use by catcher vessels over 60 ft (18.3 m) LOA that fish for both IFQ fish and non-IFQ groundfish and catcher/processors that process both IFQ fish and non-IFQ

groundfish. Catcher vessels that do not fish for any IFQ fish and catcher/processors that do not process any IFQ fish were sent a logbook that replicated the 1998 format for these logbooks. In this non-IFQ version, the IFQ fields and the IR/IU columns in the catcher vessel logbook were removed, which resulted in several blank areas on the logsheets. Vessel operators are encouraged to use the blank spaces any way they wish to record discards, or to make comments, and so forth. The logbook formats will be redesigned for the year 2000.

Comment 8: Trawling prohibition. In 1999, the instruction and reference manuals should have a new figure showing that all trawling is prohibited in the Gulf, east of 140° W. long. (area 650).

Response. Due to time constraints, NMFS was unable to add a new figure in the 1999 final rule. NMFS will consider this request in the revisions to the regulations for year 2000.

Comment 9: Submittal of reports by ER and e-mail. Throughout the proposed rule, NMFS discusses submittal of reports by fax only. Shouldn't the regulations also include the ER system, which allows reports to be sent via modem and/or e-mail as well?

Response: NMFS agrees that the ER system offers methods other than fax to submit reports. However, the ER system is a prototype system used on a voluntary basis by the fishing industry after approval by the Regional Administrator. As such, the ER procedures are not in the regulations. When this system progresses to a more formal status, the regulations will be revised accordingly.

Comment 10: Product transfer report (PTR). Processors who make wholesale shipments of groundfish each day find the creation of a PTR for each location very difficult. In fact, several wholesale processors are not completing PTRs (in spite of regulations requiring them to do so). The problem arises from the fact that there are many different locations that product is shipped to each day. Creating a PTR in addition to a bill of lading is too time-consuming. NMFS should establish a PTR requirement that will allow the aggregation of wholesale sales of groundfish by species during a day onto one PTR when recording the amount of such wholesale product leaving a facility that day. The bills of lading detailing destinations for all of the product could be made available for inspection by an authorized officer.

Response: NMFS agrees and has incorporated this request into the regulations at § 679.5(g)(1)(v).

Classification

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This rule contains collection-of-information requirements subject to the PRA, all of which have been approved by OMB under OMB Control numbers 0648–0213 and –0269. The estimated response times shown below include the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding the burden estimate, or any other aspect of these collections-of-information, including suggestions for reducing the burden to Sue Salveson, Assistant Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21688, Juneau, AK 99802, Attn: Lori Gravel, or deliver to the Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, Attn: Lori Gravel, and send to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: NOAA Desk Officer).

Approved Under 0648–0213 Alaska Logbook Family of Forms

The estimated time for the manager to complete the Shoreside Processor daily cumulative production logbook (DCPL) is 31 minutes; the estimated response time for the manager to complete the Shoreside Processor Check-in or Check-out Report is 8 minutes; the estimated response time for the operator to complete the Catcher/processor or Mothership Check-in or Check-out Report is 7 minutes; the estimated response time for the operator to complete the Weekly Cumulative Mothership ADF&G Fish Tickets is 35 minutes; the estimated response time for the manager or operator to complete the Weekly Production Report is 17 minutes; the estimated response time for the manager or operator to complete the Daily Production Report is 11 minutes; the estimated response time for the manager or operator to complete the Product Transfer Report is 11 minutes; the estimated response time for the operator to complete the Groundfish Catcher Vessel Daily Fishing Logbook (DFL) is 17 minutes; the estimated response time for the operator to complete the Groundfish/Individual Fishing Quota (IFQ) Catcher Vessel DFL is 28 minutes; the estimated response time for the operator to complete the U.S. Vessel Activity Report is 14 minutes; the estimated response time for the operator to complete the Groundfish Catcher/Processor DCPL is 31 minutes; the estimated response time for the operator to complete the Groundfish/IFQ Catcher/Processor DCPL is 41 minutes; the estimated response time for the operator or manager of a buying station to complete the Buying Station daily cumulative logbook is 23 minutes.

Approved Under 0648–0269 Western Alaska Community Development Quota (CDQ) Program

Estimated response time for the CDQ Delivery Report is 60 minutes; and the estimated response time for the CDQ Catch Report is 15 minutes.

This action has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that this rule will not have a significant economic impact on a substantial number of small entities. The economic impacts of this rule were summarized in the preamble to the proposed rule (64 FR 5868, February 5, 1999). None of the changes from the proposed rule to the final rule change these impacts. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: October 22, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

§§ 679.2, 679.20, 679.22, and 679.24 [Amended]

2. In 50 CFR part 679, change the words ''of this part'' following a figure

number or table number to read ''to this part,'' as follows:

a. In § 679.2, in the definitions: ''Aleutian Islands Subarea (AI) of the BSAI,'' ''Bering Sea and Aleutian Islands Management Area (BSAI),'' ''Bering Sea Subarea of the BSAI,'' ''Bogoslof District,'' ''Bycatch limitation zone 1 (Zone 1),'' ''Bycatch limitation zone 2 (Zone 2),'' ''Catcher Vessel Operational Area (CVOA),'' ''Central Aleutian District,'' ''Eastern Aleutian District,'' ''Gulf of Alaska (GOA),'' ''Length overall (LOA) of a vessel,'' ''PRR,'' ''Regulatory area,'' ''Round-weight equivalent,'' ''Southeast Outside District of the GOA,'' ''Statistical area,'' ''Steller Sea Lion Protection Areas,'' ''Trawl test areas,'' ''U.S.-Russian boundary,'' ''West Yakutat District,'' ''Western Aleutian District.''

b. In § 679.20, in paragraphs (h)(1), (h)(2), (h)(2)(i), and (h)(2)(ii).

c. In § 679.22, in paragraphs (a)(7)(i), (a)(7)(ii), (a)(8)(i), (a)(8)(ii), (b)(1)(i), (b)(1)(ii), (b)(2)(i), (b)(2)(ii); and

d. In § 679.24, in paragraphs (d)(4).

3. In § 679.2:

a. The definition ''CDQ number'' is removed and a new definition ''CDQ number or group number'' is added in alphabetical order;

b. The definitions for ''ADF&G fish ticket number,'' ''CDQ delivery number,'' ''Fish product,'' ''Haul,'' ''Net weight,'' ''Non-chinook salmon,'' and ''Other gear'' are added in alphabetical order;

c. The definitions for ''Authorized fishing gear,'' ''Buying station,'' ''Chinook Salmon Savings Area of the BSAI,'' ''Chum Salmon Savings Area of the BSAI CVOA,'' ''Fishing trip,'' paragraph (1), ''Forage fish'' introductory text, ''Gear deployment,'' ''Nearshore Bristol Bay trawl closure area of the BSAI,'' ''Person,'' ''Set,'' ''Steller Sea Lion Protection Areas,'' ''Stem,'' ''Stern,'' ''Tender vessel,'' and ''U.S. citizen'' are revised.

The additions and revisions read as follows:

§ 679.2 Definitions.

* * * * *

ADF&G fish ticket number means a nine-digit number designated by one alphabet letter (i.e., G = groundfish), two numbers that identify the year (i.e., 98), followed by six numbers.

* * * * *

Authorized fishing gear (see also § 679.24 for gear limitations) means trawl gear, fixed gear, longline gear, pot gear, and nontrawl gear as follows:

(1) *Fixed gear* means:

(i) For sablefish harvested from any GOA reporting area, all longline gear and, for purposes of determining initial IFQ allocation, all pot gear used to make a legal landing.

(ii) For sablefish harvested from any BSAI reporting area, all hook-and-line gear and all pot gear.

(iii) For halibut harvested from any IFQ regulatory area, all fishing gear comprised of lines with hooks attached, including one or more stationary, buoyed, and anchored lines with hooks attached.

(2) *Hand troll gear* means one or more lines, with lures or hooks attached, drawn through the water behind a moving vessel, and retrieved by hand or hand-cranked reels or gurdies and not by any electrically, hydraulically, or mechanically powered device or attachment.

(3) *Handline gear* means a hand-held line, with one or more hooks attached, that may only be operated manually.

(4) *Hook-and-line gear* means a stationary, buoyed, and anchored line with hooks attached, or the taking of fish by means of such a device.

(5) *Jig gear* means a single, non-buoyed, non-anchored line with hooks attached, or the taking of fish by means of such a device.

(6) *Longline gear* means hook-and-line, jig, troll, and handline or the taking of fish by means of such a device.

(7) *Longline pot* means a stationary, buoyed, and anchored line with two or more pots attached, or the taking of fish by means of such a device.

(8) *Nonpelagic trawl* means a trawl other than a pelagic trawl.

(9) *Nontrawl gear* means pot and longline gear.

(10) *Pelagic trawl gear* means a trawl that:

(i) Has no discs, bobbins, or rollers;

(ii) Has no chafe protection gear attached to the footrope or fishing line;

(iii) Except for the small mesh allowed under paragraph (10)(ix) of this definition:

(A) Has no mesh tied to the fishing line, headrope, and breast lines with less than 20 inches (50.8 cm) between knots and has no stretched mesh size of less than 60 inches (152.4 cm) aft from all points on the fishing line, headrope, and breast lines and extending passed the fishing circle for a distance equal to or greater than one half the vessel's LOA; or

(B) Has no parallel lines spaced closer than 64 inches (162.6 cm) from all points on the fishing line, headrope, and breast lines and extending aft to a section of mesh, with no stretched mesh size of less than 60 inches (152.4 cm) extending aft for a distance equal to or greater than one-half the vessel's LOA;

(iv) Has no stretched mesh size less than 15 inches (38.1 cm) aft of the mesh described in paragraph (10)(iii) of this definition for a distance equal to or greater than one-half the vessel's LOA;

(v) Contains no configuration intended to reduce the stretched mesh sizes described in paragraphs (10)(iii) and (iv) of this definition;

(vi) Has no flotation other than floats capable of providing up to 200 lb (90.7 kg) of buoyancy to accommodate the use of a net-sounder device;

(vii) Has no more than one fishing line and one footrope for a total of no more than two weighted lines on the bottom of the trawl between the wing tip and the fishing circle;

(viii) Has no metallic component except for connectors (e.g., hammerlocks or swivels) or a net-sounder device aft of the fishing circle and forward of any mesh greater than 5.5 inches (14.0 cm) stretched measure;

(ix) May have small mesh within 32 ft (9.8 m) of the center of the headrope as needed for attaching instrumentation (*e.g.*, net-sounder device); and

(x) May have weights on the wing tips.

(11) *Pot gear* means a portable structure designed and constructed to capture and retain fish alive in the water. This gear type includes longline pot and pot-and-line gear. Each groundfish pot must comply with the following:

(i) *Biodegradable panel.* Each pot used to fish for groundfish must be equipped with a biodegradable panel at least 18 inches (45.72 cm) in length that is parallel to, and within 6 inches (15.24 cm) of, the bottom of the pot, and that is sewn up with untreated cotton thread of no larger size than No. 30.

(ii) *Tunnel opening.* Each pot used to fish for groundfish must be equipped with rigid tunnel openings that are no wider than 9 inches (22.86 cm) and no higher than 9 inches (22.86 cm), or soft tunnel openings with dimensions that are no wider than 9 inches (22.86 cm).

(12) *Pot-and-line gear* means a stationary, buoyed line with a single pot attached, or the taking of fish by means of such a device.

(13) *Power troll gear* means one or more lines, with hooks or lures attached, drawn through the water behind a moving vessel, and originating from a power gurdy or power-driven spool fastened to the vessel, the extension or retraction of which is directly to the gurdy or spool.

(14) *Trawl gear* means a cone or funnel-shaped net that is towed through the water by one or more vessels. For purposes of this part, this definition includes, but is not limited to, beam trawls (trawl with a fixed net opening utilizing a wood or metal beam), otter

trawls (trawl with a net opening controlled by devices commonly called otter doors), and pair trawls (trawl dragged between two vessels) and is further described as pelagic or nonpelagic trawl.

(15) *Troll gear* means one or more lines with hooks or lures attached drawn through the water behind a moving vessel. This gear type includes hand troll and power troll gear.

* * * * *

Buying station means a tender vessel or land-based entity that receives unprocessed groundfish from a vessel for delivery to a shoreside processor or mothership and that does not process those fish.

* * * * *

CDQ delivery number means a sequential number assigned by the catcher vessel operator that uniquely identifies each CDQ delivery. The sequence of CDQ delivery numbers begins with the first fishing activity under a multispecies CDQ plan, and the number is incrementally adjusted by one with each delivery of fish.

* * * * *

CDQ number or group number means a number assigned to a CDQ group by NMFS that must be recorded in all logbooks and all reports submitted by the CDQ group or by vessels and processors catching CDQ or PSQ under an approved CDP.

* * * * *

Chinook Salmon Savings Area of the BSAI (See § 679.21(e)(7)(viii) and Figure 8 to this part.)

Chum Salmon Savings Area of the BSAI CVOA (See § 679.21(e)(7)(vii) and Figure 9 to this part.)

* * * * *

Fish product (See groundfish product.)

* * * * *

Fishing trip means:

(1) *Retention requirements (MRB, IR/IU, and pollock roe stripping).* With respect to retention requirements of MRB, IR/IU, and pollock roe stripping, an operator of a vessel is engaged in a fishing trip from the time the harvesting, receiving, or processing of groundfish is begun or resumed in an area until:

* * * * *

Forage fish means all species of the following families (see also Table 2 to this part):

* * * * *

Gear deployment means:

(1) *For trawl gear:* Where the trawl gear reaches the fishing level and begins to fish.

(2) *For longline gear:* Where the gear enters the water.

(3) *For pot gear:* Where the first pot enters the water.

* * * * *

Haul (See gear retrieval.)

* * * * *

Nearshore Bristol Bay Trawl Closure Area of the BSAI (See § 679.22(a)(9) and Figure 12 to this part.)

* * * * *

Net weight (IFQ or CDQ halibut only). Net weight of IFQ or CDQ halibut means the weight of a halibut that is gutted, head off, and washed or ice and slime deducted.

* * * * *

Non-chinook salmon means coho, pink, chum or sockeye salmon.

* * * * *

Other gear means gear other than authorized fishing gear.

* * * * *

Person means:

(1) *For IFQ and CDQ Programs and General Usage* the term ''person'' means any individual who is a citizen of the United States or any corporation, partnership, association, or other entity (or its successor-in-interest), regardless of whether organized or existing under the laws of any state, who is a U.S. citizen.

(2) *For High Seas Salmon Fishery permits* issued under § 679.4(h), the term ''person'' excludes any nonhuman entity.

(3) *For Vessel Moratorium* (Applicable through December 31, 1999) the term ''person'' means any individual who is a citizen of the United States or any U.S. corporation, partnership, association, or other entity (or its successor-in-interest), regardless of whether organized or existing under the laws of any state.

* * * * *

Set means a string of pots or hook-and-line gear or a group of pots that is deployed in the water in a similar location with similar soak time. A set begins when gear is deployed into the water and includes a test set, unsuccessful harvest, or when gear is not working and is pulled in, even if no fish are harvested (see also ''gear deployment'').

* * * * *

Steller Sea Lion Protection Areas (See § 679.22(a)(7), (a)(8), and (b)(2), and § 227.12 of this title.)

Stem means the forward part of a vessel (see Figure 6 to this part)—that portion of the vessel where the sides are united at the fore end with the lower end attached to the keel and the bowsprit, if one is present, resting on the upper end.

Stern means the aft part of the vessel (see Figure 6 to this part).

* * * * *

Tender vessel means a vessel that is used to transport unprocessed fish received from another vessel to a shoreside processor or mothership (see also ''buying station'').

* * * * *

U.S. citizen means:

(1) *General usage.* Any individual who is a citizen of the United States.

(2) *IFQ program.* (i) Any individual who is a citizen of the United States at the time of application for QS; or

(ii) Any corporation, partnership, association, or other entity that would have qualified to document a fishing vessel as a vessel of the United States during the QS qualifying years of 1988, 1989, and 1990.

* * * * *

4. In § 679.4, paragraphs (b)(2), (b)(4)(ii), (b)(5)(iv)(D), (b)(5)(v), (e), (f)(2)(vi), (f)(4)(ii), and the heading of paragraph (h)(2) are revised to read as follows:

§ 679.4 Permits.

* * * * *

(b) * * *

(2) *Non-groundfish.* A vessel of the United States that fishes in the GOA or BSAI for any non-groundfish species, including but not limited to halibut, crab, salmon, scallops, and herring, and that is required to retain any bycatch of groundfish under this part must obtain a Federal fisheries permit under this part.

* * * * *

(4) * * *

(ii) A Federal fisheries permit is surrendered when the original permit is submitted to and received by the Program Administrator, RAM Division, Juneau, AK.

(5) * * *

(iv) * * *

(D) If a mothership or catcher/processor operating in the GOA, indicate whether inshore or offshore component.

(v) *Signature.* The owner or agent of the owner of the vessel must sign and date the application. If the owner is a company, the agent of the owner must sign and date the application.

* * * * *

(e) *Halibut CDQ permits and CDQ cards.* See § 679.32(f).

(f) * * *

(2) * * *

(vi) *Signature.* The owner or agent of the owner of the shoreside processor must sign and date the application. If the owner is a company, the agent of the owner must sign and date the application.

* * * * *

(4) * * *

(ii) A Federal processor permit is surrendered when the original permit is submitted to and received by the Program Administrator, RAM Division, Juneau, AK.

* * * * *

(h) * * *

(2) *Crew members and other persons not the operator of a commercial fishing vessel using power troll gear.* * * *

* * * * *

5. In § 679.5:

a. Paragraphs (a)(1), (a)(3)(iii), (a)(4), (a)(6), (a)(7), (a)(9)(i)(C), (a)(9)(ii)(B), (a)(9)(iii), (a)(13) through (a)(15), (c)(2), (c)(3), (e)(1)(iii), (f)(1)(ii)(C), (g)(1) introductory text, (g)(1)(iv) heading, (g)(3)(ii)(A), (h)(2), (i)(2), (k)(1), (l)(5)(vi), (m), and (n) are revised;

b. Paragraphs (c)(4), (c)(5), and (c)(6) are removed and reserved;

c. Paragraph (h)(3) is redesignated as paragraph (h)(4) and revised; and

d. Paragraphs (a)(16), (d)(2)(iv), (e)(2)(v), (f)(1)(iii), (f)(2)(v), (g)(1)(v), and (h)(3) are added to read as follows:

§ 679.5 Recordkeeping and reporting.

(a) *General requirements*—(1) *Applicability, Federal fisheries permit*—(i) *Requirement.* Except as provided in paragraphs (a)(1)(iii) and (iv) of this section, the following participants must comply with the recordkeeping and reporting requirements of this section:

(A) Any catcher vessel, mothership, catcher/processor, or tender vessel, 5 net tons or larger, that is required to have a Federal fisheries permit under § 679.4.

(B) Any shoreside processor, mothership, or buying station that receives groundfish from vessels issued a Federal fisheries permit under § 679.4.

(C) Any buying station that receives or delivers groundfish in association with a mothership issued a Federal fisheries permit under § 679.4(b) or with a shoreside processor or vessel operating solely as a mothership in Alaska State waters issued a Federal processor permit under § 679.4(f).

(ii) *Shoreside processor, mothership, or buying station.* A shoreside processor, mothership, or buying station subject to recordkeeping and reporting requirements must report all groundfish and prohibited species received, including:

(A) Fish received from vessels not required to have a federal fisheries permit.

(B) Fish received under contract for handling or processing for another processor.

(iii) *Exemption for vessels less than 60 ft (18.3 m) LOA.* A catcher vessel less than 60 ft (18.3 m) LOA is not required to comply with recordkeeping and reporting requirements contained in § 679.5(a) through (j).

(iv) *Exemption for groundfish used as crab bait.* (A) Owners or operators of catcher vessels who take groundfish in crab pot gear for use as crab bait on board their vessels while participating in an open season for crab, and the bait is neither transferred nor sold, are exempt from Federal recordkeeping and reporting requirements contained in paragraphs (a) through (j) of this section.

(B) This exemption does not apply to fishermen who:

(*1*) Catch groundfish for bait during an open crab season and sell that groundfish or transfer it to another vessel, or

(*2*) Participate in a directed fishery for groundfish using any gear type during periods that are outside an open crab season for use as crab bait on board their vessel.

(C) No groundfish species listed by NMFS as ''prohibited'' in a management or regulatory area may be taken in that area for use as bait.

(v) *IFQ fisheries or CDQ halibut fisheries.* Any catcher vessel or catcher/processor that participates in a IFQ sablefish fishery, IFQ halibut fishery, or CDQ halibut fishery in addition to the groundfish fisheries of the GOA or BSAI and that is required to maintain a logbook under this section, must use a combined groundfish/IFQ logbook.

* * * * *

(3) * * *

(iii) The signature of the owner, operator, or manager on the DFL, DCL, or DCPL is verification of acceptance of the responsibility required in paragraphs (a)(3)(i) and (ii) of this section.

(4) *Groundfish logbooks and forms.* (i) The Regional Administrator will prescribe and provide groundfish logbooks and forms required under this section for a catcher vessel 60 ft (18.3 m) or greater LOA, a catcher/processor, a mothership, a shoreside processor, and a buying station (see Table 9 to this part).

(ii) The operator or manager must use these logbooks and forms or obtain approval from the Regional Administrator to use electronic versions of the logbooks and forms.

(iii) The operator or manager of a buying station must maintain a separate DCL for each mothership or shoreside processor to which the buying station delivers groundfish during a fishing year.

* * * * *

(6) *Maintenance of records.* (i) The operator or manager must maintain in English all records, reports, and logbooks in a legible, timely, and accurate manner; if handwritten, in indelible ink; if computer-generated, in a printed paper copy; and based on A.l.t.

(ii) The operator or manager must account for each day of the fishing year in the logbook, starting with January 1 and ending with December 31. Time periods must be recorded consecutively in the logbook.

(A) If a vessel owner or operator is granted reinstatement of a Federal fisheries permit after having surrendered it within the same fishing year, recordkeeping and reporting requirements as defined in this section must be continuous throughout that year, without interruption of records.

(B) If a shoreside processor owner or manager is granted reinstatement of a Federal processor permit after having surrendered it within the same fishing year, recordkeeping and reporting requirements as defined in this section must be continuous throughout that year, without interruption of records.

(iii) When applicable, the operator or manager must record in each report, form, and logbook the following information:

(A) *Page number.* (*1*) Except as provided in paragraph (a)(6)(iii)(A)(*2*) of this section, the operator or manager must number the pages in each logbook consecutively, beginning with page 1 and continuing throughout the logbook for the remainder of the fishing year. If more than one logbook is used in a fishing year, the page numbers should follow the consecutive order of the previous logbook.

(*2*) The manager of a shoreside processor must number the DCPL pages within Part I and Part II separately, beginning with page 1.

(B) *Date*, presented as month-day-year.

(*1*) If a catcher vessel harvesting sablefish or halibut under the IFQ Program (see subpart D of this part) in addition to groundfish and recording more than 1 day on the DFL logsheet, the operator must enter the first day of the harvest at the top of the logsheet and the date of each day in the ''record by set'' and ''discard'' sections of the DFL.

(*2*) If a catcher vessel harvesting groundfish and recording more than 1 day on the DFL logsheet, the operator must enter the first day of the harvest at the top of the logsheet and the date of each day in the ''catch'' and ''discard/donate'' sections of the DFL.

(*3*) If a shoreside processor, the manager must enter the week-ending date of the weekly reporting period at the top of the logsheet and the date of

each day of the week in the ''landings'' and ''discard/donate'' sections of the DCPL.

(C) *Time*, in military format to the nearest hour, A.l.t.

(D) *Position coordinates*, latitude and longitude to the nearest minute (optional: record to the nearest second or fraction of minute).

(E) *Original/revised report.* Except for a DFL, DCL, or DCPL, if a report is the first one submitted to the Regional Administrator for a given date, gear type, and reporting area, the report should be labeled, ''ORIGINAL REPORT.'' If a report is a correction to a previously submitted report for a given date, gear type, and reporting area, the report should be labeled, ''REVISED REPORT.''

(F) *Product codes, whole fish codes, discard product codes, and product designations*—(*1*) *General.* To record information in the DFL, DCPL, DCL, DPR, WPR, PTR, and VAR, the operator or manager must use Table 1 to this part to determine product codes, whole fish codes, discard product codes, and product designations for federally managed groundfish.

(*2*) *Codes in discard/donate sections*—(i) *Catcher/processor or mothership.* The operator of a catcher/processor or mothership must record in the discard/donate sections of the DCPL, DPR, and WPR, discard codes 96 or 98; and also code 86 to record number of prohibited species that are donated to charity under a NMFS-sponsored program.

(*ii*) *Shoreside processor.* The manager of a shoreside processor must record in the discard/donate sections of the DCPL, DPR, and WPR, discard codes 96, 98 or 99; and code 86 to record number of prohibited species that are donated to charity under a NMFS-sponsored program.

(*iii*) *Catcher vessel or buying station.* The operator of a catcher vessel or the operator or manager of a buying station must record in the discard/donate sections of the DFL or DCL, respectively, discard codes 96 or 98; whole fish codes 02, 92, 93, and 95; and code 86 to record number of prohibited species that are donated to charity under a NMFS-sponsored program. In addition, the operator of a buying station delivering to a shoreside processor must record code 99 for any discard after delivery from catcher vessels and before delivery to a shoreside processor.

(*3*) *Product code 97.* (*i*) When recording information in a DCPL for products not listed on Table 3 to this part, the operator of a catcher/processor or mothership or the manager of a shoreside processor must record code 97—other retained product and write a description of the product in addition to that code.

(*ii*) Because product code 97 is not a defined product and product recovery rates (PRRs) may vary depending on the product and, thus, are not available in Table 3 to this part to convert product amounts into round weight, the operator or manager must determine the PRR of the product and record the PRR next to the code 97 and product description in the DCPL.

(*4*) *Product code 33.* When recording information in a DCPL, DPR, WPR, or PTR for product code 33—fish oil, the operator of a catcher/processor or mothership or the manager of a shoreside processor must record and report only those amounts of oil that are destined for sale and not include amounts of oil that are stored or burned for fuel onboard.

(*5*) *Product code 41.* When recording information in a DCPL, DPR, or WPR for whole fish destined for offsite fish meal production, the operator of a catcher/processor or mothership or the manager of a shoreside processor must use code 41 as defined in Table 1 to this part. For exceptions on a PTR, see paragraph (g)(1)(i) of this section.

(*6*) *Product codes 04, 05, 51, 54, 55, 57, and 58*—(*i*) *IFQ codes.* Product codes 04, 05, 51, 54, 55, 57, and 58 are reserved for use with IFQ fish products.

(*ii*) *IFQ halibut product codes.* When recording IFQ halibut in a groundfish/IFQ DFL or DCPL, an IFQ landing report, or IFQ shipment report, the operator of a catcher vessel or catcher/processor must use only product codes 04, 05, 54, and 55 as defined in Table 1 to this part.

(*iii*) *IFQ sablefish product codes.* Except for product codes 05, 55, or 86, when recording IFQ sablefish in a groundfish/IFQ DFL or DCPL, an IFQ landing report, or IFQ shipment report, the operator of a catcher vessel or catcher/processor may use product codes defined in Table 1 to this part.

(*7*) *Discard code 99.* When recording information in a DCPL, DPR, or WPR for discard after delivery and before processing by shoreside processors and buying stations delivering to shoreside processors and in-plant discard of whole groundfish and prohibited species during processing, the manager of a shoreside processor or buying station must use code 99 as defined in Table 1 to this part. For exceptions on a PTR, see paragraph (g)(1)(i) of this section.

(G) *Species codes.* (*1*) To record information in the DFL, DCPL, DCL, DPR, WPR, and PTR, the operator or manager must use Table 2 to this part to determine species codes for federally managed groundfish, federally identified prohibited species, and ADF&G managed fish (marked with an asterisk).

(*2*) All species codes listed on Table 2 to this part for federally managed species must be recorded in the DFL, DCPL, DCL, DPR, WPR, or PTR.

(*3*) (All species codes listed on Table 2 to this part for non-federally managed species may be recorded in the DFL, DCPL, DCL, DPR, WPR, or PTR.

(*4*) Except for species codes 120, 144, 168, 169, 171, and 888, all species codes on Table 2 to this part may be used on ADF&G fish tickets, including the mothership weekly cumulative fish tickets.

(*7*) *Active and inactive periods*—(i) *Each day of fishing year.* Account for each day of the fishing year, January 1 through December 31, in the DFL, DCL, or DCPL by checking the appropriate box to indicate active and inactive periods as defined under § 679.2. The operator or manager must record the first day of the fishing year, January 1, on the first page of the DFL, DCL, or DCPL.

(ii) *Active period*—(A) *Mothership, catcher/processor, or buying station.* Except as provided in paragraph (a)(7)(ii)(C) of this section, if a mothership, catcher/processor, or buying station, use a separate logsheet for each day of an active period.

(B) *Catcher vessel or shoreside processor.* Except as provided in paragraph (a)(7)(ii)(C) of this section, if a catcher vessel or shoreside processor, use a separate logsheet for each day or use one logsheet for up to 7 days.

(C) *Active but not conducting fishing activity.* Use one logsheet to record a time period greater than 1 day when ''active but not conducting fishing activity,'' and indicate the first day and last day of this time period as follows.

(*1*) Indicate in the DFL or catcher/processor DCPL on one logsheet the first day of the period in the ''START'' date box and the last day of the period in the ''END'' date box.

(*2*) Indicate in the DCL and the shoreside processor DCPL on one logsheet the first day of the period in the ''MONTH–DAY–YEAR'' box and the last day of the period in the ''END'' date box.

(*3*) If an active period with no fishing activity extends across two or more successive quarters, the operator or manager must complete two logsheets: The first logsheet to indicate the last day of the first quarter and the next logsheet to indicate the first day of the second quarter.

(iii) *Inactive period.* Use one logsheet to record a time period greater than 1 day when inactive, and indicate the first day and last day of this time period as follows:

(A) Indicate in the DFL or catcher/processor DCPL on one logsheet the first day of an inactive period in the ''START'' date box and the last day of an inactive period in the ''END'' date box.

(B) Indicate in the DCL and the shoreside processor DCPL on one logsheet the first day of an inactive period in the ''MONTH–DAY–YEAR'' box and the last day of an inactive period in the ''END'' date box.

(C) If an inactive period extends across two or more successive quarters, the operator or manager must complete two logsheets: The first logsheet to indicate the last day of the first quarter and the second logsheet to indicate the first day of the second quarter.

(iv) *Fishing activity.* Indicate in the DFL, DCL, or DCPL all fishing activity, which is defined as follows:

(A) If a catcher vessel—harvest or discard of groundfish.

(B) If a catcher/processor—harvest, discard, or processing of groundfish.

(C) If a mothership or shoreside processor—receipt, discard, or processing of groundfish.

(D) If a buying station—receipt, discard, or delivery of groundfish.

(v) *Active and conducting fishing activity.* If in an active period and conducting fishing activity, the operator of a catcher vessel must record in the DFL, the operator or manager of a buying station must record in the DCL, and the operator or manager of a catcher/processor, mothership, or shoreside processor must record in the DCPL, WPR, DPR, and mothership or catcher/processor check-in/check-out report as follows:

(A) *Gear type.* (*1*) The gear type used to harvest the groundfish. If gear type is not an authorized fishing gear as defined at § 679.2, circle OTHER.

(*2*) If a mothership, shoreside processor, or buying station and groundfish are received from the same reporting area but were harvested with more than one gear type; or if a catcher/processor and groundfish were caught in the same reporting area using more than one gear type, the operator or manager must:

(*i*) If a mothership, shoreside processor, or a catcher/processor, use a separate logsheet in the DCPL to record each gear type.

(*ii*) If a buying station, use a separate logsheet in the DCL to record each gear type.

(*ii*) If a mothership, shoreside processor, or a catcher/processor, submit a separate check-in/check-out report, DPR (if required), and WPR for each gear type.

(B) *Reporting Area.* In the DFL, DCL, DCPL, WPR, DPR, mothership or catcher/processor check-in/check-out report, the reporting area code (see Figures 1 and 3 to this part) where gear retrieval, as defined at § 679.2, was completed.

(*1*) If a haul or set occurs in more than one reporting area, record the reporting area code where gear retrieval was completed, regardless of where the majority of the haul or set took place.

(*2*) If a catcher vessel or catcher/processor using trawl gear, record whether catch was harvested in the COBLZ or in the RKCSA.

(*i*) If recording in a DFL or DCPL, use two separate logsheets, the first to record the information from the reporting area that includes the COBLZ or RKCSA and the second to record the information from the reporting area that does not include the COBLZ or RKCSA.

(*ii*) If recording on a WPR, use two separate columns to record the part of the same reporting area that includes the COBLZ or RKCSA and the part that does not include the COBLZ or RKCSA.

(*3*) If a catcher/processor using trawl gear and recording on a check-in/check-out report, the operator must submit a separate check-in/check-out report to record the part of the same reporting area that includes the COBLZ or RKCSA and the part that does not include the COBLZ or RKCSA area.

(C) *Observers.* (*1*) If a mothership or shoreside processor DCPL, a catcher/processor groundfish DCPL, or a catcher vessel groundfish DFL, the number of observers aboard or on site.

(*2*) If a groundfish/IFQ catcher vessel DFL or groundfish/IFQ catcher/processor DCPL, the number of observers aboard, the name of observer, and the observer cruise number.

(D) *Number of crew or crew size.* In a DFL, DCL, DCPL (except shoreside processor), and mothership or catcher/processor WPR, the number of crew, excluding certified observer(s), on the last day of the weekly reporting period.

(E) *CDQ.* In a DFL, DCL, DCPL, WPR, DPR, or check-in/check-out report:

(*1*) If harvest is under a CDQ program, record the CDQ number. If harvest is not under a CDQ program, leave blank.

(*2*) If harvest is under more than one CDQ number, use a separate logsheet for each CDQ number.

(*3*) If a catcher vessel delivering to a shoreside processor and using a groundfish/IFQ DFL, record the CDQ delivery number in the appropriate box. If using a groundfish DFL, record the CDQ delivery number in the blank space in the ''identification'' section of the logsheet.

(*4*) If a shoreside processor or buying station delivering to a shoreside processor, record CDQ delivery number under the catcher vessel's name in the delivery information section of the DCPL or DCL, respectively.

(F) *Experimental fisheries.* If harvest is under an experimental fisheries program, record the experimental fisheries number (e.g., EXP 9801) in the CDQ number block.

* * * * *

(9) * * *

(i) * * *

(C) (*1*) If groundfish are not received or processed during a day, the operator or manager must write ''no groundfish receipt or production'' on the production section of the DCPL.

(*2*) If groundfish are not received or processed during a weekly reporting period, the manager must submit a WPR (see paragraph (i) of this section) for each week in which no groundfish are received or processed and write ''no groundfish receipt or production this week'' on the production section of the WPR.

(ii) * * *

(B) *Weekly production.* At the end of each weekly reporting period or prior to the offload or transfer of all fish or fish product from a catcher/processor or mothership if offload or transfer occurs before the end of a weekly reporting period, enter for each species and product code the cumulative total fish product weight for each groundfish product to the nearest lb or to at least the nearest 0.001 mt, summarized separately by reporting area, gear type, COBLZ or RKCSA area if applicable under paragraph (a)(7)(v)(B) of this section, and CDQ number. The cumulative total fish product weight is calculated by adding the daily totals and total carried forward (except for a Shoreside Processor DCPL) for that week.

(iii) *Zero amount carried forward.* At the beginning of each weekly reporting period or after the offload or transfer of all fish or fish product onboard if such offload occurs prior to the end of a weekly reporting period, from a catcher/processor or mothership, the amount is zero, and nothing shall be carried forward from the previous weekly reporting period.

* * * * *

(13) *Inspection and retention of records*—(i) *Inspection.* The operator of a catcher/processor or mothership or the manager of a shoreside processor or the

operator or manager of a buying station must make all logbooks, reports, forms, and mothership-issued fish tickets required under this section available for inspection upon the request of an authorized officer for the time periods indicated in paragraph (a)(13)(ii) of this section.

(ii) *Retention of records.* The operator or manager must retain logbooks and forms as follows:

(A) *On site.* On site until the end of the fishing year during which the records were made and for as long thereafter as fish or fish products recorded in the logbooks and forms are retained.

(B) *For 3 years.* Except for the operator or manager of a buying station, for 3 years after the end of the fishing year during which the records were made.

(C) *Catcher Vessel.* The operator of a catcher vessel must retain the original (white) copy of all DFLs and a paper copy of the VAR, if applicable.

(D) *Mothership or Shoreside Processor.* The operator of a mothership or the manager of a shoreside processor must retain:

(*1*) The white copy of all DCPLs.

(*2*) A paper copy of all forms submitted to NMFS, including those forms that were originally submitted electronically.

(*3*) The photocopies of DCL yellow copies until the original DCL is received from the associated buying station at the conclusion of fishing or no later than February 1 of the following fishing year.

(*4*) The bound DCLs containing the white logsheets from associated buying stations.

(*5*) The blue DFL copies submitted by operators of catcher vessels through the last day of the fishing year during which the records were made.

(*6*) The white copy of any fish ticket issued to a catcher vessel.

(E) *Catcher/processor.* The operator of a catcher/processor must retain:

(*1*) The white copy of all DCPLs.

(*2*) A paper copy of all forms submitted to NMFS, including those forms that were originally submitted electronically.

(F) *Buying Station.* The operator or manager of a buying station must retain the pink DCL copies for each associated mothership or shoreside processor for 3 years after the end of the fishing year during which the records were made.

(14) *Submittal and distribution of logbooks and forms.* For recordkeeping and reporting in the groundfish fisheries of the EEZ off Alaska, the operator of a catcher vessel, mothership, catcher/processor, or of a buying station delivering to a mothership, or the manager of a shoreside processor or of a buying station delivering to a shoreside processor is required to use the logbooks issued in accordance with paragraph (a)(4) of this section, submit the logsheets to NMFS in accordance with this paragraph (a)(14), and retain the logbooks in accordance with paragraph (a)(13) of this section.

(i) *Submittal of forms.* The operator or manager must submit the check-in report, check-out report, vessel activity report, weekly production report, daily production report, and product transfer report (see Table 9 to this part), as applicable by:

(A) Faxing the NMFS printed form to the fax number on the form; or

(B) Transmitting a data file with required information and forms to NMFS by modem, satellite (specifically INMARSAT standards A, B, or C), or e-mail.

(C) With the approval of the Regional Administrator, using the voluntary electronic reporting format for the check-in report, check-out reports, and WPR.

(ii) *Logbook descriptions.* The copy sets of each logbook are described here:

Type of logbook	Copy sets
(A) Catcher vessel Groundfish/IFQ DFL	White, blue, green, yellow.
(B) Catcher vessel Groundfish DFL	White, blue, yellow.
(C) Catcher/processor Groundfish/IFQ DCPL	White, green, yellow
(D) Catcher/processor Groundfish DCPL	White, yellow.
(E) Mothership DCPL	White, yellow.
(F) Shoreside Processor DCPL	White, yellow.
(G) Buying Station DCL	White, pink, yellow.

(iii) *Logsheet distribution.* The operator or manager must distribute or retain the multiple copies of each logsheet described in paragraph (a)(14)(ii) as follows:

If logsheet color is:	Distribute to:	See paragraph 679.5(a)(14):	Exception, see 679.5
(A) White	Logsheet remains permanently in logbook.		
(B) Yellow	Submit quarterly to NMFS	(iii)(A)	(a)(14)(iii)(A)(*1*).
(C) Blue (catcher vessel only)	Operator submits to buying station, mothership, or shoreside processor that receives the groundfish harvest.	(iii)(B)	(c)(6)(i).
(D) Pink (buying station only)	Operator or manager retains	(iii)(C)	
(E) Green (groundfish/ IFQ logbooks only).	For distribution under NMFS/IPHC groundfish/ IFQ logbook program.	(iii)(D)	

(A) *Yellow logsheet.* The operator or manager must submit the yellow copy of each logbook to NMFS on a quarterly basis to: NMFS'' Office of Enforcement, Alaska Region Logbook Program, P.O. Box 21767, Juneau, AK 99802–1767, on the following schedule:

First quarter	By May 1 of that fishing year.
Second quarter	By August 1 of that fishing year.
Third quarter	By November 1 of that fishing year.
Fourth quarter	By February 1 of the following fishing year.

(*1*) *Buying station.* The operator or manager of a buying station must submit upon delivery of catch the yellow DCL copy to the associated mothership or shoreside processor, along with the ADF&G fish tickets for that delivery.

(*2*) *Mothership or shoreside processor.* The operator of a mothership or manager of a shoreside processor must make and retain a photocopy of each yellow DCL logsheet received from an associated buying station and submit the yellow DCL copies to NMFS along with the mothership or shoreside processor DCPL yellow copies.

(*3*) *Groundfish and groundfish/IFQ logbooks (Effective through December 31, 1999).* The operator of a catcher vessel or catcher/processor must submit all of the yellow logsheets both from the groundfish logbook and from the groundfish/IFQ logbook to NMFS.

(B) *Blue discard logsheet, DFL*—(1) *Catcher vessel.* Except when delivering an unsorted codend (see paragraph (c)(6)(i) of this section), the operator of a catcher vessel must submit the blue DFL copy to the buying station, mothership, or shoreside processor that receives the groundfish harvest.

(*2*) *Buying station.* The operator or manager of a buying station must submit upon delivery of catch to an associated mothership or shoreside processor any blue DFL copies received from catcher vessels delivering groundfish to the buying station.

(*C*) *Pink logsheet, DCL.* The operator or manager of a buying station must retain the pink DCL copies for each associated mothership or shoreside processor for 3 years after the end of the fishing year during which the records were made.

(D) *Green logsheet, groundfish/IFQ DFL and catcher/processor DCPL.* The green copies in the groundfish/IFQ DFL and catcher/processor DCPL are to support a separate data collection by the IPHC under the joint NMFS/IPHC logbook program; check with the IPHC for submittal and retention requirements.

(15) *Delivery information for mothership and shoreside processor.* The operator of a mothership or the manager of a shoreside processor must record the following information in the ''delivery information section'' of the Mothership DCPL or Shoreside Processor DCPL:

(i) If groundfish delivery was made by a catcher vessel or buying station, write ''CV'' or ''BS,'' respectively.

(ii) If groundfish delivery is from a catcher vessel, enter YES or NO to indicate whether the blue DFL copies were submitted by the catcher vessel at the time of delivery; if NO, record as follows:

If blue DFL not submitted by catcher vessel, record NO and the letter:	To indicate the catcher vessel
(leave blank; no letter necessary)	Did not give reason for nonsubmittal.
P	Does not have a federal fisheries permit.
P	Is under 60 ft (18.3 m) LOA and does not have a federal fisheries permit.
L	Is under 60 ft (18.3 m) LOA and has a federal fisheries permit.
U	Delivered an unsorted codend.

(iii) Name and ADF&G vessel number (if applicable) of the catcher vessel or buying station delivering the groundfish.

(iv) Date and time (to the nearest hour, A.l.t.) when receipt of groundfish catch is completed.

(v) Estimated total groundfish delivery weight of the groundfish catch to the nearest lb or to the nearest mt.

(vi) ADF&G fish ticket numbers issued to catcher vessels for the weekly reporting period, including the fish ticket numbers issued by an associated buying station.

(vii) If a mothership:

(A) Latitude and longitude (to the nearest minute) of the mothership position when the groundfish catch is received. Option: Record to nearest second or fraction of minute.

(B) Round catch weight of IR/IU pollock and Pacific cod.

(viii) If a shoreside processor and located in a state other than Alaska, the manager must record the fish ticket number issued through that state and write above the number, the name of the state. If a state fish ticket system is not used, the manager must record the catch receipt number with the state written above the number.

(16) *Delivery information for buying station.* The operator or the manager of a buying station must record the following information in the ''delivery information section'' of the Buying Station DCL:

(i) Name and ADF&G vessel number of the catcher vessel delivering the groundfish.

(ii) Date and time (to the nearest hour, A.l.t.) when receipt of groundfish catch is completed.

(iii) Estimated total groundfish delivery weight of the groundfish catch to the nearest lb or to the nearest mt.

(iv) ADF&G fish ticket number issued to the catcher vessel.

(v) Name, ADF&G processor code, and Federal fisheries permit number or Federal processor permit number of the associated mothership or shoreside processor to which groundfish deliveries were made.

* * * * *

(c) * * *

(2) *Time limit and submittal*—(i) *Catcher vessel DFL.*

(A) The operator of a catcher vessel must record in the DFL:

(*1*) The time, position, and estimated total catch weight of groundfish for each haul or set within 2 hours after gear retrieval.

(*2*) Discard or donation information as described at paragraph (a)(10) of this section each day on the day they occur; all other information required in the DFL by noon of the day following gear retrieval.

(*3*) Notwithstanding other time limits, all information required in the DFL within 2 hours after the vessel's catch is offloaded.

(B) Except as provided at paragraph (c)(3)(iii)(B)(*1*) of this section, within 2 hours of completion of catch delivery information, the operator of a catcher vessel must submit the blue DFL copies with delivery of the harvest to the operator of a mothership or a buying station delivering to a mothership, or to the manager of a shoreside processor or buying station delivering to a shoreside processor.

(C) The operator must sign the completed DFL logsheets by noon of the day following the week-ending date of the weekly reporting period (see paragraph (a)(3)(iii) of this section).

(ii) *Catcher/processor DCPL.* The operator of a catcher/processor must record in the DCPL:

(A) The time, position, and estimated total catch weight of groundfish for each haul or set within 2 hours after gear retrieval.

(B) Product and discard or donation information as described at paragraphs (a)(9) and (a)(10) of this section each day on the day they occur; all other

information required in the DCPL by noon of the day following completion of production.

(C) Notwithstanding other time limits, record all information required in the DCPL within 2 hours after the vessel's catch is offloaded.

(D) The operator must sign the completed DCPL logsheets by noon of the day following the week-ending date of the weekly reporting period (see paragraph (a)(3)(iii) of this section).

(3) *Logbook formats*—(i) *Groundfish/IFQ format.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher vessel at least 60 ft (18.3 m) LOA or a catcher/processor harvesting sablefish or halibut under the IFQ program (see subpart D of this part) in addition to groundfish must record the operator's name and the following information in the groundfish/IFQ DFL or DCPL, respectively:

(A) *Observer information*—(1) *Name of observer.* (Optional, but may be required by the International Pacific Halibut Commission at 50 CFR chapter III (IPHC regulations).)

(*2*) *Observer cruise number.* (Optional, but may be required by IPHC regulations.)

(B) *Gear type.* (1) Check the appropriate box to indicate gear type used to harvest the fish and enter appropriate gear ID. If gear information is the same as the previous page, check the appropriate box instead of re-entering the information.

(*2*) If gear type is pot, enter:

(*i*) The number of pots set.

(*ii*) The number of pots lost (if applicable). (Optional, but may be required by IPHC regulations.)

(*3*) If gear type is hook-and-line, check the appropriate box to indicate whether gear is fixed hook (conventional or tub), autoline, or snap. (Optional, but may be required by IPHC regulations.)

(*4*) If gear type is fixed hook (conventional or tub), autoline, or snap, enter:

(*i*) The length of skate to the nearest foot (optional, but may be required by IPHC regulations).

(*ii*) The size of hooks, hook spacing in feet, and number of hooks per skate (optional, but may be required by IPHC regulations.)

(*iii*) The number of skates set.

(*iv*) The number of skates lost (if applicable) (optional, but may be required by IPHC regulations.)

(*C*) *IFQ permit numbers.* Enter the IFQ permit numbers of the of operator and each IFQ holder aboard.

(*D*) *CDQ information.* The groundfish CDQ number and the halibut CDQ permit number. Write in the groundfish CDQ delivery number in the box under the vessel name.

(*E*) *Set and haul information.* (*1*) The number of set or haul, sequentially by year;

(*2*) The date set (month-day-year), time set (to the nearest hour), and latitude and longitude (to the nearest minute) of gear deployment (begin position);

(*3*) Begin and end buoy or bag numbers (optional, but may be required by IPHC regulations);

(*4*) The date hauled (month-day-year), time hauled (to the nearest hour), and latitude and longitude (to the nearest minute) of gear retrieval (end position);

(*5*) The begin and end gear depths, recorded to the nearest fathom (optional, but may be required by IPHC regulations);

(*6*) Species code for target species;

(*7*) Estimated net weight of IFQ or CDQ halibut catch to the nearest pound (optional, but may be required by IPHC regulations);

(*8*) If CDQ halibut, enter the estimated net weight of catch to the nearest pound separately from IFQ halibut and indicate ''CDQ'' above the amount (optional, but may be required by IPHC regulations);

(*9*) Estimated weight of IFQ sablefish to the nearest pound. Circle appropriate term to indicate whether IFQ sablefish product is Western cut, Eastern cut, or round weight;

(*10*) Number of sablefish;

(*11*) If a catcher vessel, enter the estimated total round catch weight of all species, except sablefish or halibut, to the nearest pound; and

(*12*) If a catcher/processor, enter:

(*i*) The round catch weight of pollock and Pacific cod to the nearest pound or metric ton.

(*ii*) Estimated total round catch weight of all species combined, except sablefish, halibut, Pacific cod, or pollock, to the nearest pound.

(*iii*) When fishing in an IFQ fishery and the fishery for Pacific cod or rockfish is closed to directed fishing in that reporting area as described in § 679.20, the operator must record up to and including the maximum retainable bycatch amount for Pacific cod or rockfish as defined in Table 10 or 11 to this part; quantities over this amount must be recorded in the discard or donation section.

(F) *Groundfish/IFQ logbooks (Effective through December 31, 1999).* The operator of a catcher vessel or catcher/processor must record all information in the groundfish DFL or catcher/processor DCPL received at the beginning of 1999 until receipt of the groundfish/IFQ DFL or catcher/processor DCPL, as follows:

(*1*) On the final page of the groundfish logbook, complete the date of receipt, page number, and participant identification information (see paragraph (a)(5) of this section). Write ''transfer to groundfish/IFQ logbook'' across the logsheet.

(*2*) On the first page of the groundfish/IFQ logbook, enter the next consecutive page number, date of receipt, and participant identification (see paragraph (a)(5) of this section), then write ''transferred from groundfish logbook'' across the logsheet.

(ii) *Groundfish format.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher vessel or a catcher/processor harvesting groundfish must record average number of hooks, if using longline gear, and the following information for each haul or set in the groundfish DFL or DCPL, respectively:

(A) The number of set or haul, sequentially by year;

(B) If the vessel is using hook-and-line gear, the number of skates set. If the vessel is using longline pot or single pot gear, the total number of pots set;

(C) The date (month-day-year), begin time (to the nearest hour) and position coordinates (to the nearest minute) of gear deployment;

(D) The date (month-day-year), end time (to the nearest hour), and position coordinates (to the nearest minute) of gear retrieval;

(E) The average sea depth and average gear depth, recorded to the nearest meter or fathom;

(F) If a catcher/processor, the total round catch weight of pollock and Pacific cod, to the nearest pound or metric ton.

(G) If a catcher vessel, the estimated total round catch weight of all species, to the nearest pound or metric ton.

(H) If a catcher/processor, the estimated total round catch weight of all species except Pacific cod and pollock, to the nearest pound or metric ton.

(iii) *Discard or donation species information*—(A) *Catcher/processor.* The operator of a catcher/processor must record discard or donation information as described in paragraph (a)(10) of this section.

(B) *Catcher vessel.* In addition to the requirements in paragraph (a)(10) of this section, the operator of a catcher vessel must record in the DFL:

(*1*) *Unsorted codends.* If a catcher vessel is using trawl gear and deliveries to a mothership or shoreside processor are unsorted codends, the catcher vessel is exempt from recording discards in the DFL and from submittal of the blue DFL copy (discards copy) for that delivery (see paragraph (a)(14)(iv)(C) of this

section). The operator must check the box entitled ''unsorted codend'' and must remove and discard the blue DFL copy.

(*2*) *Presorted delivery.* Except as provided at § 679.27(d), if a catcher vessel is using trawl gear and deliveries to a mothership or shoreside processor are presorted at sea or if the catcher vessel has ''bled'' a codend prior to delivery to a mothership, shoreside processor, or buying station, the operator must check the ''presorted delivery'' box, and enter the estimated amount of discards by species in the DFL.

(iv) *Catcher vessel delivery information.* If a catcher vessel, the operator must record in the DFL:

(A) The landing or delivery date (month-day-year).

(B) The ADF&G fish ticket number(s) provided by the operator of the mothership or buying station delivering to a mothership, or the manager of a shoreside processor or buying station delivering to a shoreside processor.

(C) Recipient's name or IFQ registered buyer receiving delivery.

(D) Name of unloading port. If an IFQ landing, see § 679.5(l)(5)(vi) and Table 14 to this part for names of primary ports.

(v) *Catcher/processor product information.* If a catcher/processor, the operator must record product information in the DCPL as set forth in paragraph (a)(9) of this section.

(vi) *Comments.* (Optional.)

(d) * * *

(2) * * *

(iv) The operator or manager must sign the completed DCL logsheets by noon of the day following the week-ending date of the weekly reporting period (see § 679.5(a)(3)(iii)).

(e) * * *

(1) * * *

(iii) Occurs during processing of groundfish received from a catcher vessel or buying station.

(2) * * *

(v) The operator must sign the completed DCPL logsheets by noon of the day following the week-ending date of the weekly reporting period (see § 679.5(a)(3)(iii)).

(f) * * *

(1) * * *

(ii) * * *

(C) Occurs during processing of groundfish received from a catcher vessel or buying station.

(iii) If the manager of a shoreside processor receives groundfish and records them as landings in Part IB of the DCPL, and transfers these fish to another processor, the manager must also record these fish in Part II of the DCPL prior to transfer.

(2) * * *

(v) The manager must sign the completed DCPL logsheets by noon of the day following the week-ending date of the weekly reporting period (see § 679.5(a)(3)(iii) of this part).

(g) * * *

(1) *Requirement.* Except as provided in paragraphs (g)(1) (i) through (v) of this section, the operator of a mothership or catcher/processor or the manager of a shoreside processor must record each transfer of groundfish product or donated prohibited species on a separate PTR.

* * * * *

(iv) *IFQ or CDQ sablefish product.* * * *

(v) *Wholesale.* The operator or manager may aggregate wholesale sales of groundfish by species during a day onto one PTR when recording the amount of such wholesale product leaving a facility that day. The bills of lading detailing destinations for all of the product must be available for inspection by an authorized officer.

* * * * *

(3) * * *

(ii) * * *

(A) *Name.* (*1*) If another vessel is involved with the transfer, the name and call sign of the vessel receiving or delivering groundfish or groundfish products.

(*2*) If transfer is from other than a vessel, line-out ''vessel name'', write in ''processor name'', and record name of processor receiving or delivering groundfish or groundfish products.

* * * * *

(h) * * *

(2) *Time limits and submittal, Check-in report (BEGIN message)*—(i) *Catcher/processor*—(A) *Using hook-and-line or pot gear.* (*1*) Before the operator of a catcher/processor using hook-and-line or pot gear sets gear for groundfish in any reporting area except 300, 400, 550, or 690, the operator must submit a check-in report (BEGIN message) by fax to the Regional Administrator.

(*2*) The operator of a catcher/processor using hook-and-line or pot gear may be checked-in to more than one area simultaneously.

(B) *Using other than hook-and-line or pot gear.* (*1*) Before the operator of a catcher/processor using other than hook-and-line or pot gear commences fishing for groundfish in any reporting area except 300, 400, 550, or 690, the operator must submit a check-in report (BEGIN message) by fax to the Regional Administrator.

(*2*) Except as provided in paragraph (h)(2)(i)(C) of this section, the operator of a catcher/processor using other than hook-and-line or pot gear may be checked-in to only one reporting area at a time.

(C) If on the same day a catcher/processor intends to fish in two adjacent reporting areas (an action which would require submittal of check-out reports and check-in reports multiple times a day when crossing back and forth across a reporting area boundary), and the two reporting areas have on that day and time an identical fishing status for every species, the operator must submit to NMFS:

(*1*) A check-in report to the first area prior to entering the first reporting area, and

(*2*) A check-in report to the second area prior to entering the second reporting area.

(*3*) If the catcher/processor remains within 10 nautical miles (18.5 km) of the boundary between the two areas and crosses back and forth between the first and second reporting areas one or more times, a check-out report from either reporting area is not required.

(*4*) If the catcher/processor proceeds in the second reporting area beyond 10 nautical miles (18.5 km) of the boundary between the two areas, the operator must submit a check-out report from the first reporting area per paragraph (h)(3)(i)(B) of this section.

(ii) *Mothership or shoreside processor.* (A) Before a mothership or shoreside processor commences receipt of groundfish from any reporting area except 300, 400, 550, or 690, the operator or manager must submit by fax a check-in report (BEGIN message) to the Regional Administrator.

(B) The operator of a mothership must check-in to the reporting area(s) where groundfish were harvested and may be checked into more than one area simultaneously.

(iii) *Fishing for groundfish CDQ species.* The operator of a catcher/processor or mothership, or the manager of a shoreside processor must submit by fax a check-in report to the Regional Administrator prior to groundfish CDQ fishing for each CDQ group.

(3) *Time limits and submittal Check-out report (CEASE message)*—(i) *Catcher/processor*—(A) *Using hook-and-line or pot gear.* (*1*) If a catcher/processor using hook-and-line or pot gear completes gear retrieval and departs a reporting area, the operator must submit by fax a check-out report to the Regional Administrator within 24 hours after departing that reporting area.

(*2*) If a catcher/processor using hook-and-line or pot gear is checked-in to multiple reporting areas, the operator must submit a check-out report for each reporting area by fax.

(B) *Using other than hook-and-line or pot gear.* Except as provided in paragraph (h)(2)(i)(B)(*3*) of this section, if a catcher/processor using other than hook-and-line or pot gear departs a reporting area, the operator must submit by fax a check-out report to the Regional Administrator within 24 hours after departing a reporting area but prior to checking-in another reporting area.

(ii) *Mothership.* (A) If a mothership receives groundfish from a reporting area, the operator must submit by fax a check-out report to the Regional Administrator within 24 hours after receipt of fish from that reporting area is complete.

(B) If a mothership is checked-in to multiple reporting areas, the operator must submit a check-out report for each reporting area by fax.

(iii) *Shoreside processor.* If a shoreside processor, the manager:

(A) Except as noted in paragraph (h)(3)(iii)(B) of this section, must submit a check-out report by fax to the Regional Administrator within 48 hours after the end of the applicable weekly reporting period that a shoreside processor ceases to process groundfish for the fishing year.

(B) If groundfish will not be received or processed for at least two consecutive weekly reporting periods, the manager may choose one of the following options:

(*1*) Submit a check-out report by fax to the Regional Administrator, or

(*2*) Submit a WPR (see paragraph (i) of this section) for each week in which no groundfish are received or processed and write ''no groundfish receipt or production this week'' on the production section of the WPR.

(iv) *End of fishing year.* If a check-out report has not previously been submitted during a fishing year, the operator or manager must submit a check-out report at the end of that fishing year, December 31.

(v) *Fishing for CDQ species.* The operator of a catcher/processor or mothership or the manager of a shoreside processor must submit a check-out report by fax to the Regional Administrator within 24 hours after groundfish CDQ fishing for each CDQ group has ceased.

(4) *General information.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher/processor or mothership or the manager of a shoreside processor must record:

(i) *BEGIN message*—(A) *Mothership.* (*1*) Date (month-day-year) and time (to the nearest hour, A.l.t.) that receipt of groundfish begins.

(*2*) Latitude and longitude of position in degrees and minutes where groundfish receipt begins.

(*3*) Reporting area code where groundfish were harvested by catcher vessel and if using trawl gear, whether groundfish were harvested in the COBLZ or RKCSA area.

(*4*) Primary and secondary species expected to be received the following week. A change in intended target species within the same reporting area does not require a new BEGIN message.

(*5*) Whether functioning as a mothership or catcher/processor.

(B) *Catcher/processor.* (*1*) Date (month-day-year) and time (to the nearest hour, A.l.t.) that gear is deployed.

(*2*) Latitude and longitude of position in degrees and minutes where gear is deployed.

(*3*) Reporting area code where gear deployment begins, and if using trawl gear, whether catcher/processor is located in the COBLZ or RKCSA area.

(*4*) Primary and secondary species expected to be harvested the following week. A change in intended target species within the same reporting area does not require a new BEGIN message.

(*5*) Whether functioning as a mothership or catcher/processor.

(C) *Shoreside processor.* (*1*) Date (month-day-year) the facility will begin to receive groundfish.

(*2*) Whether checking in for the first time at the beginning of the fishing year or to restart receipt and processing of groundfish after filing a check-out report.

(ii) *CEASE message*—(A) *Mothership.* Date (month-day-year), time (to the nearest hour, A.l.t.), and latitude and longitude of position in degrees and minutes where the last receipt of groundfish was made.

(B) *Catcher/processor.* Date (month-day-year), time (to the nearest hour, A.l.t.), and latitude and longitude of position in degrees and minutes where the vessel departed the reporting area.

(C) *Shoreside processor.* Date (month-day-year) that receipt of groundfish ceased.

(iii) *Fish or fish product held at plant.* The manager of a shoreside processor must report the weight of all fish or fish products held at the plant in lbs or to the nearest 0.001 mt by species and product codes on each check-in report and on each check-out report.

(i) * * *

(2) *Time limits and submittal.* (i) The operator or manager must submit a WPR by fax to the Regional Administrator by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period.

(ii) If still fishing or processing, the operator or manager must submit a WPR at the end of each fishing year (midnight, December 31) regardless of where this date falls within the weekly reporting period. If still fishing or processing, the operator or manager must submit a WPR starting January 1 through the end of the weekly reporting period.

* * * * *

(k) *U.S. Vessel Activity Report (VAR)*—(1) *Applicability.* Except as noted in paragraph (k)(1)(iv)(A) of this section:

(i) *Seaward boundary of the EEZ off Alaska or the U.S.-Canadian international boundary between Alaska and British Columbia.* The operator of a catcher vessel, catcher/processor, or of a mothership holding a federal fisheries permit issued under this part and carrying fish or fish product must submit a VAR by fax to NMFS Alaska Enforcement Division, Juneau, AK, before the vessel crosses the seaward boundary of the EEZ off Alaska or crosses the U.S.-Canadian international boundary between Alaska and British Columbia.

(ii) *GOA Seamounts.* The operator of a catcher vessel, catcher/processor, or of a mothership that is departing to or returning from fishing at the GOA Seamounts regardless of whether fish or fish product is onboard must submit a VAR by fax to NMFS' Alaska Enforcement Division, Juneau, AK, before the vessel crosses the seaward boundary of the EEZ off Alaska or crosses the U.S.-Canadian international boundary between Alaska and British Columbia.

(iii) *Russian Zone.* The operator of a catcher vessel, catcher/processor, or of a mothership that is departing to or returning from fishing at the Russian Zone regardless of whether fish or fish product is onboard must submit a VAR by fax to NMFS' Alaska Enforcement Division, Juneau, AK, before the vessel crosses the seaward boundary of the EEZ off Alaska or crosses the U.S.-Canadian international boundary between Alaska and British Columbia.

(iv) *IFQ halibut, IFQ sablefish, and Groundfish*—(A) *Only IFQ halibut and/or IFQ sablefish.* If a vessel is carrying only IFQ halibut and/or IFQ sablefish onboard and the operator has received a Vessel Clearance (VC) per paragraph (l)(5)(iii) of this section or has submitted a Vessel Departure Report (VDR) per paragraph (l)(5)(iii)(B) of this section, the operator is not required to submit a VAR.

(B) *IFQ halibut, IFQ sablefish, and Groundfish.* If a vessel is carrying

federal groundfish and IFQ halibut or IFQ sablefish, the operator must submit a VAR in addition to a VDR or a VC.

* * * * *

(l) * * *

(5) * * *

(vi) *Primary ports.* Unless specifically authorized on a case-by-case basis, vessel clearances will be issued only by clearing officers at the primary ports listed in Table 14 to this part.

(m) *Consolidated weekly ADF&G fish tickets from motherships*—(1) *Requirement.* (i) In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a mothership must ensure that the combined catch for each catcher vessel is summarized at the end of each weekly reporting period by species on a minimum of one ADF&G groundfish fish ticket when the mothership receives any groundfish from a catcher vessel that is issued a federal fisheries permit under § 679.4. (An ADF&G fish ticket is further described (see § 679.3) at Alaska Administrative Code, 5 AAC Chapter 39.130.)

(ii) Only that information listed here need be completed on the fish ticket for purposes of federal groundfish requirements. Some of the fish ticket fields are defined differently for purposes of federal groundfish requirements.

(2) *Information required from the catcher vessel.* The operator of a mothership must ensure that the following information is written legibly or imprinted from the catcher vessel operator's State of Alaska, Commercial Fisheries Entry Commission (CFEC) permit card on the consolidated weekly ADF&G fish ticket:

(i) *Vessel name.* Name of the catcher vessel delivering the groundfish.

(ii) *Name.* Name of CFEC permit holder aboard the catcher vessel delivering the groundfish. If there is a change in the operator of the same catcher vessel during the same weekly reporting period, complete a fish ticket for each operator.

(iii) *Permit number.* CFEC permit number of CFEC permit holder aboard the catcher vessel delivering the groundfish.

(iv) *ADF&G No.* ADF&G vessel number of the catcher vessel delivering the groundfish.

(v) *ADF&G Statistical area.* The six-digit ADF&G groundfish statistical area denoting the actual area of catch.

(vi) *Permit holder's signature.* The signature of the catcher vessel CFEC permit holder.

(3) *Information required from the mothership.* The operator of a mothership must ensure that the following information is written legibly or imprinted from the mothership's CFEC processor plate card on the consolidated weekly ADF&G fish ticket:

(i) *Processor code.* ADF&G processor code of mothership.

(ii) *Company.* Name of mothership.

(iii) *Port of landing or vessel transshipped to.* Enter ''FLD'', a code which means floating domestic mothership.

(iv) *Fish received by.* The signature of the mothership operator.

(4) *Information required about the catch.* The operator of a mothership must record on the consolidated weekly ADF&G groundfish fish ticket the following information:

(i) *Date landed.* The week-ending date of the weekly reporting period during which the mothership received the groundfish from the catcher vessel.

(ii) *Type of gear used.* Write in one of the following gear types used by the catcher vessel to harvest the groundfish received: Hook and line, pot, nonpelagic trawl, pelagic trawl, jig/troll, other.

(iii) *Code.* Species code for each species from Table 2 to this part, except species codes 120, 144, 168, 169, or 171.

(iv) *Condition code.* The product code from Table 1 to this part which describes the condition of the fish received by the mothership from the catcher vessel. In most cases, this will be product code 01, whole fish.

(v) *Statistical area.* ADF&G 6-digit statistical area in which groundfish were harvested. If there are more than eight statistical areas for a fish ticket in a weekly reporting period, complete a second fish ticket. These statistical areas are defined in a set of charts obtained at no charge from Alaska Commercial Fisheries Management & Development Division, Department of Fish and Game, 211 Mission Road, Kodiak, AK, 99615–6399.

(vi) *Pounds.* The landed weight of each species to the nearest pound. If working in metric tons, convert to pounds using 2205 lb = 1 metric ton before recording on fish ticket.

(5) *Time limit and submittal.* (i) The operator of a mothership must complete the consolidated weekly ADF&G groundfish fish ticket for each catcher vessel by 1200 hours, A.l.t., on Tuesday following the end of the applicable weekly reporting period. A fax copy is not acceptable.

(ii) The operator of a mothership must ensure copy distribution or retention of the multiple copies of each consolidated weekly ADF&G groundfish fish ticket (G series) as follows:

If color of fish ticket is:	Distribute to:	Time limit to submit:
(A) White	Retained by Mothership, see paragraph (a)(13)(ii)(D)(*6*).	
(B) Yellow	Alaska Commercial Fisheries Management & Development Division, Department of Fish and Game, 211 Mission Road, Kodiak, AK, 99615–6399.	Within 30 days after landings are received.
(C) Pink	Catcher vessel delivering groundfish to the mothership	1200 hours, A.l.t., on Tuesday following the end of the applicable weekly reporting period.
(D) Goldenrod	Extra copy.	

(n) *Groundfish CDQ fisheries*—(1) *CDQ delivery report*—(i) *Applicability.* The manager of each shoreside processor and the operator of each vessel of the United States operating solely as a mothership in Alaska State waters and taking deliveries of CDQ or PSQ species from catcher vessels must submit a CDQ delivery report for each delivery of groundfish CDQ or PSQ species.

(ii) *Time limitation and submittal.* The manager or operator as defined at paragraph (n)(1)(i) of this section must submit to the Regional Administrator a CDQ delivery report within 24 hours of completion of each delivery of groundfish CDQ or PSQ species to the processor.

(iii) *Information required.* The manager or operator as defined at paragraph (n)(1)(i) of this section must record the following information on each CDQ delivery report:

(A) *CDQ group information.* CDQ group number as defined at § 679.2 and CDQ group name or acronym.

(B) *Processor information.* (*1*) Name and federal processor permit number of the processor as defined at paragraph (n)(1)(i) of this section taking delivery of the CDQ catch.

(*2*) Date delivery report submitted.

(C) *Vessel information.* Enter the name, federal Fisheries Permit number if applicable, and ADF&G number of the vessel delivering CDQ catch. Write ''unnamed'' if the vessel has no name.

(D) *CDQ catch information.* (*1*) Enter the delivery date, CDQ delivery number, harvest gear type, and reporting area of CDQ harvest for each CDQ delivery. If caught with trawl gear, check appropriate box(es) to indicate if catch was made in the CVOA or the COBLZ.

(*2*) Enter groundfish CDQ species that were delivered to the processor as defined at paragraph (n)(1)(i) of this section by product codes and species codes as defined in Tables 1 and 2 to this part, respectively.

(*3*) *Weight.* Report the weight of each CDQ species in metric tons to at least the nearest 0.001 mt.

(E) *Halibut CDQ/IFQ and Sablefish IFQ information.* Report the weight of all halibut CDQ, halibut IFQ, or sablefish IFQ in the CDQ delivery that also was reported to NMFS on an IFQ landing report by product codes and species codes as defined in Tables 1 and 2 to this part, respectively.

(F) *PSQ information.* Whether PSQ delivered by observed catcher vessels or at-sea discards of PSQ by vessels without observers, record the following information:

(*1*) For each prohibited species other than salmon or crab, enter the species code as defined in Table 2 to this part and the weight to the nearest 0.001 mt.

(*2*) For salmon or crab, enter the species code as defined in Table 2 to this part and the number of animals.

(2) *CDQ catch report*—(i) *Applicability.* The CDQ representative must submit a CDQ catch report for all catch made by catcher/processors or made by catcher vessels groundfish CDQ fishing as defined at § 679.2 and delivered to a shoreside processor, to a vessel of the United States operating solely as a mothership in Alaska State waters, or to a mothership.

(ii) *Time limitation and submittal.* The CDQ representative must submit to the Regional Administrator a CDQ catch report for each delivery of groundfish CDQ species within 7 days of the date a catcher vessel delivered CDQ catch to a processor as defined in paragraph (n)(2)(i) of this section, or within 7 days of the date catcher/processors retrieved gear used to catch CDQ.

(iii) *Information required, all CDQ catch reports.* The CDQ representative must record the following information on each CDQ catch report:

(A) *Vessel information*—(*1*) Select appropriate vessel/gear/delivery type. Based on the type selected, complete each of the specified blocks.

(*2*) Enter the name, Federal fisheries permit number if applicable, and ADF&G number of the vessel delivering CDQ catch. Write ''unnamed'' if the vessel has no name.

(*3*) Indicate gear type used to harvest CDQ catch. If using trawl gear, check the appropriate box(es) to indicate any catch from the CVOA or COBLZ.

(B) *Reporting area.* Enter Federal reporting area in which CDQ catch occurred.

(C) *CDQ group information.* (*1*) CDQ number as defined at § 679.2 and CDQ group name or acronym.

(*2*) Date report submitted.

(iv) *Information required for catcher vessels retaining all groundfish CDQ and delivering to a shoreside processor or a vessel of the United States operating solely as a mothership in Alaska State waters (Option 1 in the CDP).* The CDQ representative must record the following information on each applicable CDQ catch report:

(A) *Delivery information.* (*1*) Name and Federal processor permit number of the shoreside processor or the mothership operating solely in Alaska State waters taking delivery of the CDQ catch.

(*2*) Date catch delivered.

(*3*) Catcher vessel CDQ delivery number.

(B) *Catch information, groundfish CDQ species.* Report the weight in metric tons to at least the nearest 0.001 mt for each groundfish CDQ species retrieved by a catcher/processor or delivered to a processor as defined in paragraph (n)(1)(i) by product code and species code as defined in Tables 1 and 2 to this part, respectively.

(C) *Catch information, halibut IFQ/CDQ and sablefish IFQ.* The CDQ representative must report the weight of all halibut CDQ, halibut IFQ, and sablefish IFQ in the CDQ delivery that also was reported to NMFS on an IFQ landing report in metric tons to at least the nearest 0.001 mt by product code and species code as defined in Tables 1 and 2 to this part, respectively.

(D) *Mortality information, salmon and crab PSQ.* For salmon or crab, enter the species code, as defined in Table 2 to this part, and the number of animals.

(E) *Mortality information, halibut PSQ.* For halibut PSQ catch, enter the round weight to the nearest 0.001 mt, mortality rate, and overall halibut mortality in metric tons to the nearest 0.001 mt. Use the target fishery designations and halibut bycatch mortality rates in the annual final specifications published in the **Federal Register** under § 679.20(c).

(v) *Information required for catcher/processors, catcher vessels delivering unsorted codends to motherships, and catcher vessels using nontrawl gear and discarding groundfish CDQ at sea (Option 2 in the CDP).* The CDQ representative must record the following information on each applicable CDQ catch report.

(A) *Delivery information.* (*1*) If a catcher vessel delivering unsorted codends to a mothership, the mothership name and federal fisheries permit number, CDQ observer's haul number, and date gear retrieved onboard the mothership as determined by the CDQ observer.

(*2*) If a catcher/processor, the CDQ observer's haul or set number, and date gear retrieved as determined by the CDQ observer.

(*3*) If a catcher vessel using nontrawl gear, discarding groundfish CDQ at sea, and delivering to a shoreside processor or mothership operating solely in Alaska State waters, the processor name, federal processor permit number, CDQ delivery number, and delivery date.

(B) *Catch information, groundfish CDQ species.* (See § 679.5(n)(2)(iv)(B).)

(C) *Catch information, halibut IFQ/CDQ and sablefish IFQ* (See § 679.5(n)(2)(iv)(C).)

(D) *Mortality information, salmon and crab prohibited species.* (See § 679.5(n)(2)(iv)(D).)

(E) *Mortality information, halibut PSQ.* (See § 679.5(n)(2)(iv)(E).)

6. In § 679.6, paragraph (g) is added to read as follows:

§ 679.6 Experimental fisheries.

* * * * *

(g) *Recordkeeping and reporting requirements.* In addition to the recordkeeping and reporting requirements in this section, the operator or manager must comply with requirements at § 679.5(a) through (k).

§ 679.20 [Amended]

7. In § 679.20, remove the parenthetical phrase in paragraph (b)(1)(v) heading; and remove the in-text table in paragraph (g)(3).

8. In § 679.21, paragraph (b)(5) is added, and paragraph (e)(7)(vi)(A) is revised to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(b) * * *

(5) *Sablefish as a prohibited species.* (See § 679.24(c)(2)(ii).)

* * * * *

(e) * * *

(7) * * *

(vi) * * *

(A) *Closure.* Except as provided in paragraph (e)(7)(vi)(B) of this section, if,

during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(A) through (F) of this section in the BSAI will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the **Federal Register** the closure of the Herring Savings Area as defined in Figure 4 to this part to directed fishing for each species and/or species group in that fishery category.

* * * * *

9. In § 679.22, paragraph (a)(10) and the heading of paragraph (h) are revised; and paragraph (b)(4) is added to read as follows:

§ 679.22 Closures.

(a) * * *

(10) *Chum Salmon Savings Area.* Trawling is prohibited from August 1 through August 31 in the Chum Salmon Savings Area defined at Figure 9 to this part (see also § 679.21(e)(7)(vii)).

(b) * * *

(4) *Southeast Outside District, gear other than nontrawl.* Use of any gear other than nontrawl gear is prohibited at all times in Southeast Outside District defined at Figure 3 to this part.

* * * * *

(h) *CDQ fisheries closures.* * * *

* * * * *

§ 679.24 [Amended]

10. In § 679.24:

a. Remove paragraph (b)(1)(i) and (b)(1)(ii);

b. Redesignate paragraph (b)(1)(iii) as paragraph (b)(1);

c. Paragraphs (b)(1)(iii)(A) and (B) are redesignated as paragraphs (b)(1)(i) and (ii), respectively; and

d. Amend the table heading in paragraph (e)(3)(iv) by removing the text ''(e)(2)(iv)'' and adding in its place ''(e)(3)(iv)''.

§ 679.28 [Amended]

11. In § 679.28, remove in paragraph (b)(5)(i) the text ''daily cumulative production logbook'' and add in its place ''DCPL'', and remove in paragraph (c)(3) the text ''§ 679.5(a)(15)'' and add in its place ''§ 679.5(a)(13).''

12. In § 679.31, paragraph (b)(3) introductory text, is revised to read as follows:

§ 679.31 CDQ reserves.

* * * * *

(b) * * *

(3) The proportions of the halibut catch limit annually withheld for the halibut CDQ program, exclusive of issued QS, and the eligible communities for which they shall be made available are as follows for each IPHC regulatory area (see Figure 15 to this part):

* * * * *

13. In § 679.32, paragraphs (c) introductory text, (c)(1), (c)(3) introductory text, (c)(4) introductory text, (c)(4)(iii), (d)(1), and the heading of (d)(2)(v) are revised to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

* * * * *

(c) *Requirements for vessels and processors.* In addition to complying with the minimum observer coverage requirements at § 679.50(c)(4), operators of vessels groundfish CDQ fishing and managers of shoreside processors taking deliveries from vessels groundfish CDQ fishing must comply with the following requirements:

(1) *Catcher vessels without an observer.* (i) Operators of catcher vessels less than 60 ft (18.3 m) LOA must retain all groundfish CDQ, halibut CDQ, and salmon PSQ until it is delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section. All halibut PSQ and crab PSQ must be discarded at sea. Operators of catcher vessels using trawl gear must report the at-sea discards of halibut PSQ or crab PSQ on the CDQ delivery report (see § 679.5(n)(1)). Operators of catcher vessels using nontrawl gear must report the at-sea discards of halibut PSQ on the CDQ delivery report, unless exempted from accounting for halibut PSQ under paragraph (b) of this section.

(ii) *Catcher vessels delivering unsorted codends.* Operators of catcher vessels delivering unsorted codends to motherships must retain all CDQ and PSQ species and deliver them to a mothership that meets the requirements of paragraph (c)(4) of this section.

* * * * *

(3) *Shoreside processors and vessels of the United States operating solely as a mothership in Alaska State waters.* The manager of a shoreside processor or the operator of a vessel of the United States operating solely as a mothership in Alaska State waters must comply with all of the following requirements:

* * * * *

(4) *Catcher/processors and motherships.* The operator of a catcher/processor or a mothership taking deliveries of unsorted codends from catcher vessels must comply with the following requirements:

* * * * *

(iii) *Catcher/processors using trawl gear and motherships.* The operator of a catcher/processor using trawl gear or of a mothership taking deliveries of unsorted codends from catcher vessels must weigh all catch on a scale that complies with the requirements of § 679.28(b). A valid scale inspection report described at § 679.28(b)(2) must be on board the vessel at all times when a scale is required. Catch from each CDQ haul must be weighed separately. Catch must not be sorted before it is weighed, unless a provision for doing so is approved by NMFS for the vessel in the CDP. Each CDQ haul must be sampled by a CDQ observer for species composition and the vessel operator must allow CDQ observers to use any scale approved by NMFS to weigh partial CDQ haul samples.

* * * * *

(d) *Recordkeeping and reporting*—(1) *Catch record.* The manager of a shoreside processor or the operator of a vessel of the U.S. operating solely as a mothership in Alaska state waters must submit to NMFS the CDQ delivery report required in § 679.5(n)(1). The CDQ representative must submit to NMFS the CDQ catch report required in § 679.5(n)(2). Additionally, all other applicable requirements in § 679.5 for groundfish fishing must be met.

(2) * * *

(v) *Catcher/processors using trawl gear.* * * *

* * * * *

§ 679.42 [Amended]

14. In § 679.42, remove paragraphs (c)(2)(i) through (c)(2)(iii), including the in-text table of paragraph (c)(2)(iii).

Tables 1, 3, 5, 8, 9, and 13 and Figures 1 through 5, 7, and 13 [Amended]

Tables 14 and 15 and Figures 16 and 17 [Added]

15. In part 679:

a. Figures 1 through 5, Figures 7 through 15, and Tables 1 through 3, 5, 8, 9, 12, and 13 are revised, and

b. Figures 16 and 17 and Tables 14 and 15 are added to read as follows:

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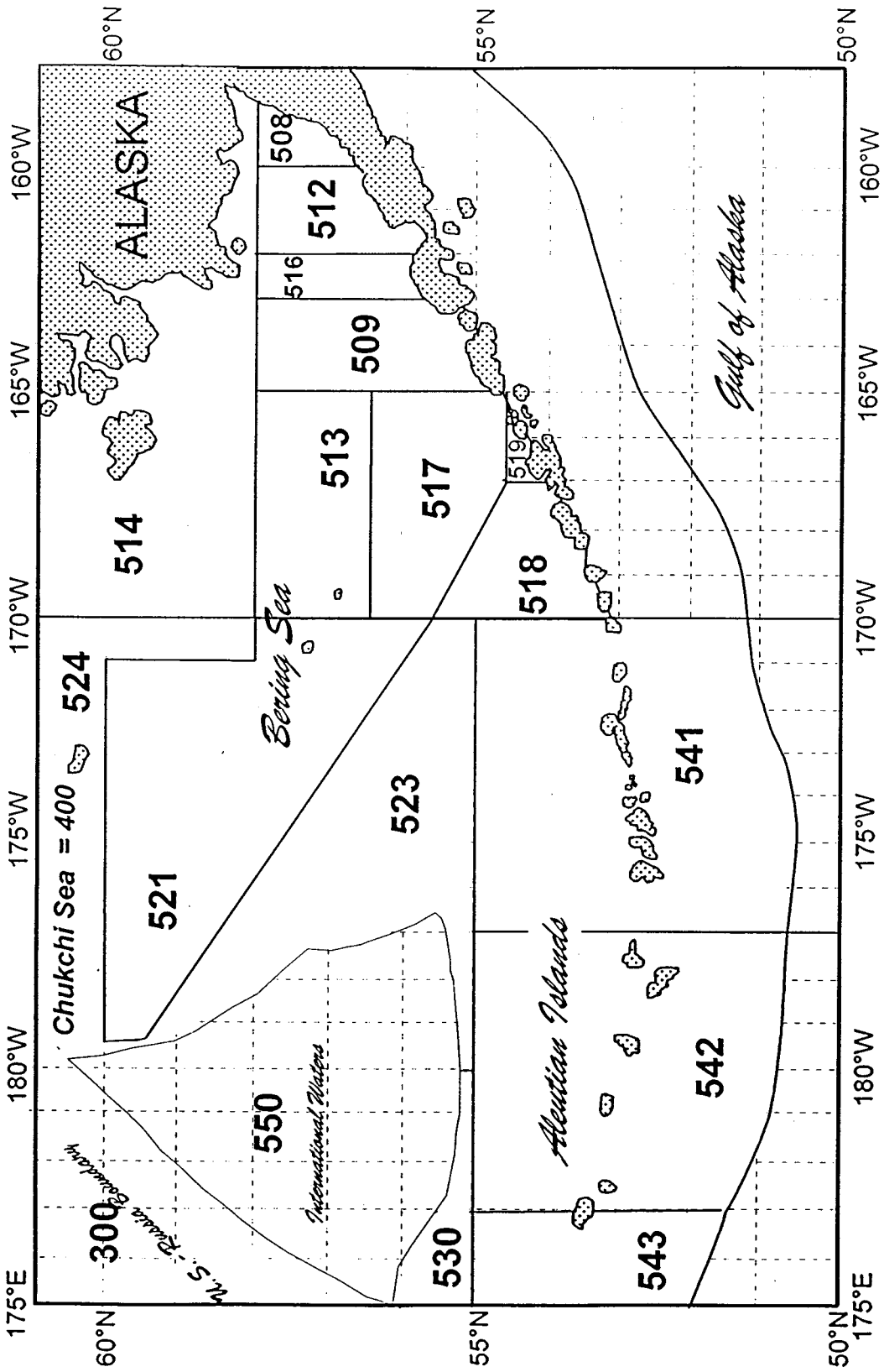

Figure 1 to Part 679. Bering Sea and Aleutian Islands statistical and reporting areas

a. Map

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Figure 1 to Part 679.—BSAI Statistical and Reporting Areas

b. Coordinates

Code	Description
300	*Russian waters.* Those waters inside the Russian 200 mile limit as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart INT 814 Bering Sea (Northern Part).
400	*Chukchi Sea.* North of a diagonal line between 66°00′ N, 169° 42.5′ W (Cape Dezhneva, Russia); and 65°37.5′ N, 168°7.5′ W (Cape Prince of Wales, Alaska) and to the limits of the U.S. EEZ as described in the current edition of NOAA chart INT 814 Bering Sea (Northern Part).
508	South of 58°00′ N between the intersection of 58°00′ N lat with the Alaska Peninsula and 160°00′ W long.
509	South of 58°00′ N lat between 163°00′ W long and 165°00′ W long.
512	South of 58°00′ N lat, north of the Alaska Peninsula between 160°00′ W long and 162°00′ W long.
513	Between 58°00′ N lat and 56°30′ N lat, and between 165°00′ W long and 170°00′ W long.
514	North of 58°00′ N to the southern boundary of the Chukchi Sea, area 400, and east of 170°00′ W long.
516	South of 58°00′ N lat, north of the Alaska Peninsula, and between 162°00′ and 163°00′ W long.
517	South of 56°30′ N lat, between 165°00′ W long and 170°00′ W long; and north of straight lines between 54°30′ N lat, 165°00′ W long, 54°30′ N lat, 167°00′ W long, and 55°46′ N lat, 170°00′ W long.
518	*Bogoslof District:* South of a straight line between 55°46′ N lat, 170°00′ W long and 54°30′ N lat, 167°00′ W long, and between 167°00′ W long and 170°00′ W long, and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 52°49.2′ N, 169°40.4′ W, 52°49.8′ N, 169°06.3′ W, 53°23.8′ N, 167°50.1′ W, 53°18.7′ N, 167°51.4′ W.
519	South of a straight line between 54°30′ N lat, 167°00′ W long and 54°30′ N lat, 164°54′ W long; east of 167°00′ W long; west of Unimak Island; and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 53°59.0′ N, 166°17.2′ W, 54°02.9′ N, 166°03.0′ W, 54°07.7′ N, 165°40.6′ W, 54°08.9′ N, 165°38.8′ W, 54°11.9′ N, 165°23.3′ W, 54°23.9′ N, 164°44.0′ W.
521	The area bounded by straight lines connecting the following coordinates in the order listed: 55°46′ N, 170°00′ W, 59°25′ N, 179°20′ W, 60°00′ N, 179°20′ W, 60°00′ N, 171°00′ W, 58°00′ N, 171°00′ W, 58°00′ N, 170°00′ W, 55°46′ N, 170°00′ W.
523	The area bounded by straight lines connecting the following coordinates in the order listed: 59°25′ N, 179°20′ W, 55°46′ N, 170°00′ W, 55°00′ N, 170°00′ W, 55°00′ N, 180°00′ W, and north to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
524	The area west of 170°00′ W bounded south by straight lines connecting the following coordinates in the order listed: 58°00′ N, 170°00′ W, 58°00′ N, 171°00′ W, 60°00′ N, 171°00′ W, 60°00′ N, 179°20′ W, 59°25′ N, 179°20′ W, and to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
530	The area north of 55°00 N lat and west of 180°00 W long to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
541	*Eastern Aleutian District.* The area south of 55°00′ N lat, west of 170°00′ W long, and east of 177°00′ W long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
542	*Central Aleutian District.* The area south of 55°00′ N lat, west of 177°00′ W long, and east of 177°00′ E long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
543	*Western Aleutian District.* The area south of 55°00′ N lat and west of 177°00′ E long, and bounded on the south and west by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
550	*Donut Hole.* International waters of the Bering Sea outside the limits of the EEZ and Russian economic zone as depicted on the current edition of NOAA chart INT 813 Bering Sea (Southern Part).

Note: A statistical area is the part of a reporting area contained in the EEZ.

BILLING CODE 3510–22–P

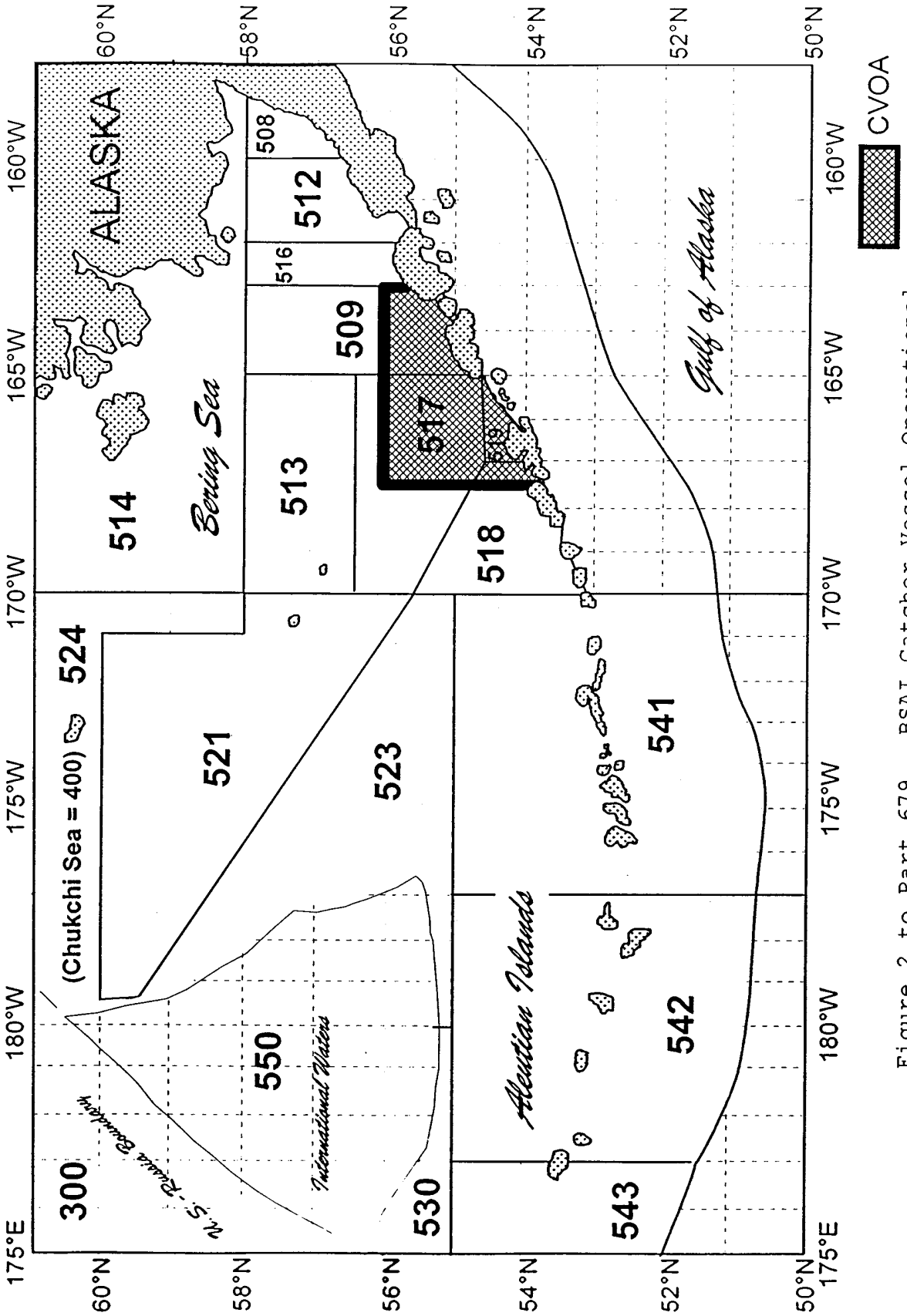

Figure 2 to Part 679. BSAI Catcher Vessel Operational Area (CVOA) (South of 56°00' N lat between 163°00' W and 167°30' W long)

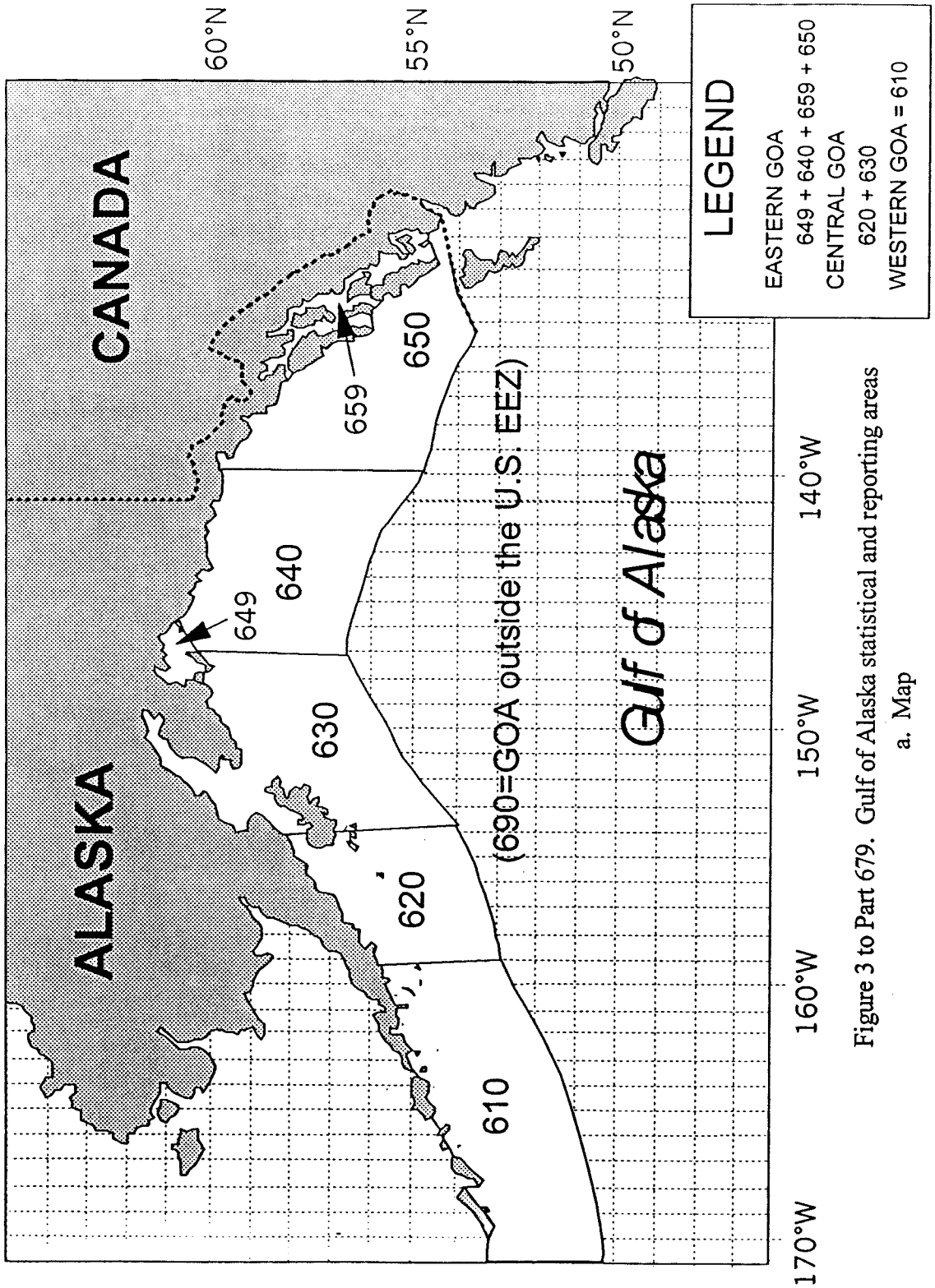

Figure 3 to Part 679. Gulf of Alaska statistical and reporting areas

a. Map

BILLING CODE 3510–22–C

Figure 3 to Part 679.—Gulf of Alaska Statistical and Reporting Areas

b. Coordinates

Code	Description
610	*Western Regulatory Area, Shumagin District.* Along the south side of the Aleutian Islands, including those waters south of Nichols Point (54°51′30″ N lat) near False Pass, and straight lines between the islands and the Alaska Peninsula connecting the following coordinates in the order listed: 52°49.2′ N, 169°40.4′ W; 52°49.8′ N, 169°06.3′ W; 53°23.8′ N, 167°50.1′ W; 53°08.7′ N, 167°51.4′ W; 53°59.0′ N, 166°17.2′ W; 54°02.9′ N, 166°03.0′ W; 54°07.7′ N, 165°40.6′ W; 54°08.9′ N, 165°38.8′ W; 54°11.9′ N, 165°23.3′ W; 54°23.9′ N, 164°44.0′ W; and southward to the limits of the US EEZ as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), between 170°00′ W long and 159°00′ W long.
620	*Central Regulatory Area, Chirikof District.* Along the south side of the Alaska Peninsula, between 159°00′ W long and 154°00′ W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).
630	*Central Regulatory Area, Kodiak District.* Along the south side of continental Alaska, between 154°00′ W long and 147°00′ W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.
640	*Eastern Regulatory Area, West Yakutat District.* Along the south side of continental Alaska, between 147°00′ W long and 140°00′ W long, and southward to the limits of the US EEZ, as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.
649	*Prince William Sound.* Includes those waters of the State of Alaska inside the base line as specified in Alaska State regulations at 5 AAC 28.200.
650	*Eastern Regulatory Area, Southeast Outside District.* East of 140°00′ W long and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 659.
659	*Southeast Inside District.* As specified in Alaska State regulations at 5 AAC 28.105 (a)(1) and (2).
690	*Gulf of Alaska outside the U.S. EEZ* as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).

Note: A statistical area is the part of a reporting area contained in the EEZ.

BILLING CODE 3510–22–P

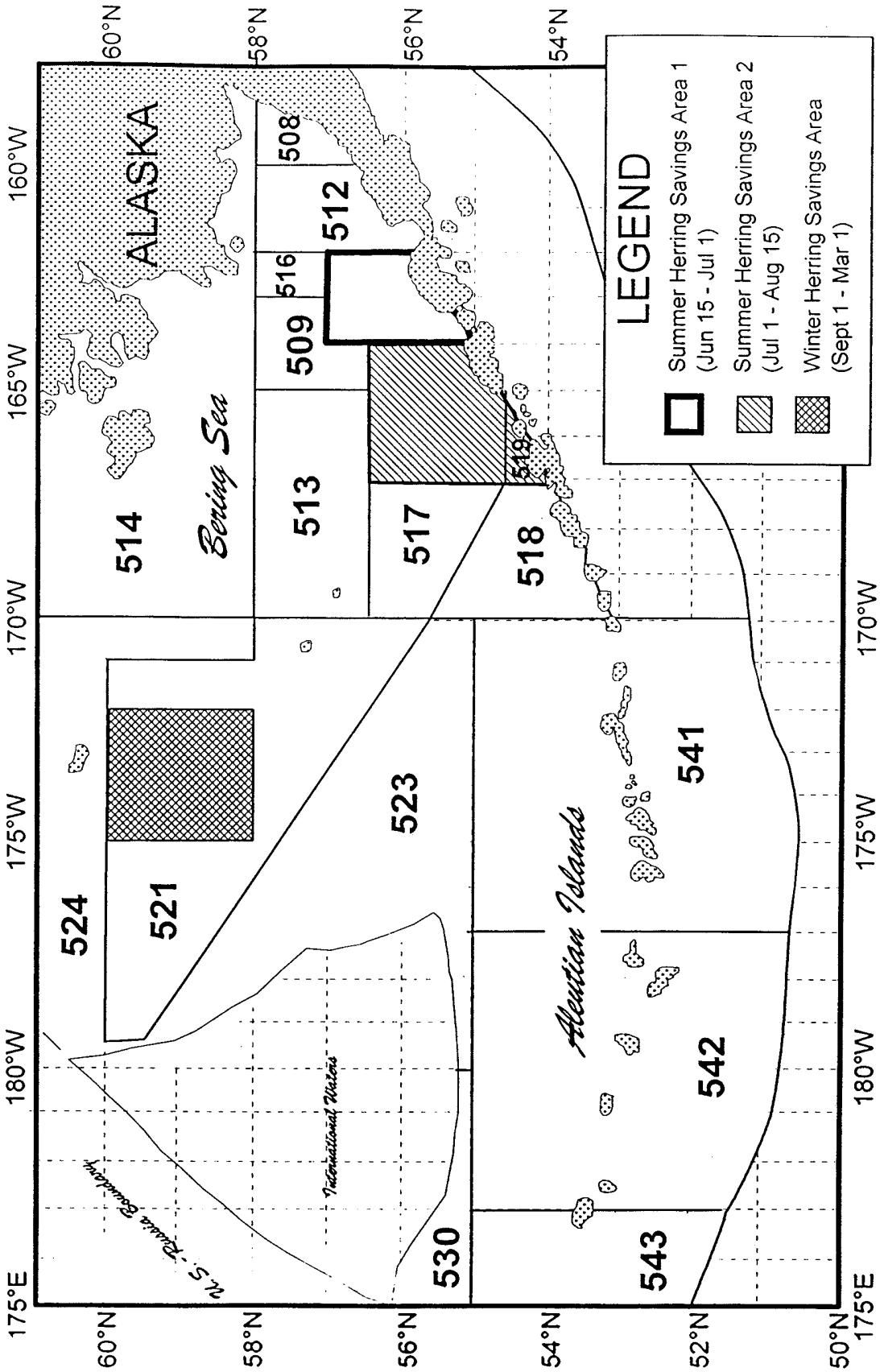

Figure 4 to Part 679. BSAI Herring Savings Areas
a. Map.

BILLING CODE 3510–22–C

Figure 4 to Part 679.—Herring Savings Areas in the BSAI

b. Coordinates

Name	Description and effective date
Summer Herring Savings Area 1	That part of the Bering Sea subarea that is south of 57° N lat and between 162° and 164° W long from 1200 hours, A.l.t., June 15 through 1200 hours, A.l.t. July 1 of a fishing year.
Summer Herring Savings Area 2	That part of the Bering Sea subarea that is south of 56°30′ N lat and between 164° and 167° W long from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t. August 15 of a fishing year.
Winter Herring Savings Area	That part of the Bering Sea subarea that is between 58° and 60° N lat and between 172° and 175° W long from 1200 hours, A.l.t. September 1 of the current fishing year through 1200 hours, A.l.t. March 1 of the succeeding fishing year.

BILLING CODE 3510–22–P

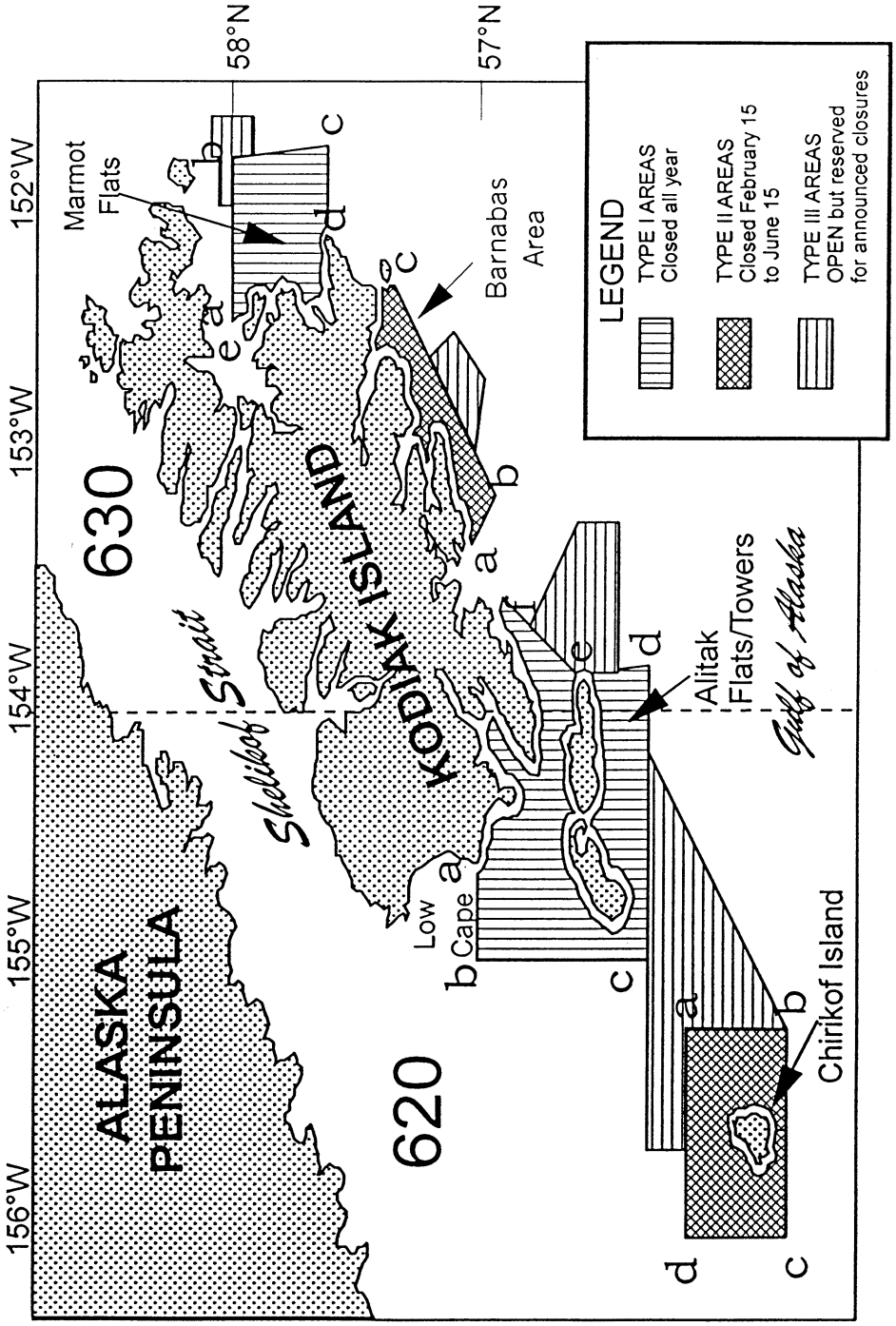

Figure 5 to Part 679. Areas closed to non-pelagic trawl gear in the Gulf of Alaska near Kodiak Island
a. Map

BILLING CODE 3510–22–C

Figure 5 to Part 679.—Kodiak Island Areas Closed to Non-Pelagic Trawl Gear

b. Coordinates

Name and description of reference area	North latitude/West longitude	Reference point
Alitak Flats and Towers Areas	All waters of Alitak Flats and the Towers Areas enclosed by a line connecting the following 7 points in the order listed:	
a	56°59′4″ 154°31′1″	Low Cape.
b	57°00′0″ 155°00′0″	
c	56°17′0″ 155°00′0″	
d	56°17′0″ 153°52′0″	
e	56°33′5″ 153°52′0″	Cape Sitkinak.
f	56°54′5″ 153°32′5″	East point of Twoheaded Island.
g	56°56′0″ 153°35′5″	Kodiak Island, thence, along the coastline of Kodiak Island until intersection of Low Cape.
a	56°59′4″ 154°31′1″	Low Cape.
Marmot Flats Area	All waters enclosed by a line connecting the following five points in the clockwise order listed:	
a	58°00′0″ 152°30′0″′	
b	58°00′0″ 151°47′0″	
c	57°37′0″ 151°47′0″	
d	57°37′0″ 152°10′1″	Cape Chiniak, then along the coastline of Kodiak Island to North Cape.
e	57°54′5″ 152°30′0″	
a	58°00′0″ 152°30′0″	
Chirikof Island Area	All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counter-clockwise order listed:	
a	56°07′0″ 155°13′0″	
b	56°07′0″ 156°00′0″	
c	55°41°0″ 156°00′0″	
d	55°41′0″ 155°13′0″	
a	56°07′0″ 155°13′0″	
Barnabas Area	All waters enclosed by a line connecting the following six points in the counter clockwise order listed:	
a	57°00′0″ 153°18′0″	Black Point.
b	56°56′0″ 153°09′0″	
c	57°22′0″ 152°18′5″	South Tip of Ugak Island.
d	57°23′5″ 152°17′5″	North Tip of Ugak Island.
e	57°25′3″ 152°20′0″	Narrow Cape, thence, along the coastline of Kodiak Island Cape Kasick to Black Point, including inshore waters.
f	57°04′2″ 153°30′0″	
a	57°00′0″ 153°18′0″	

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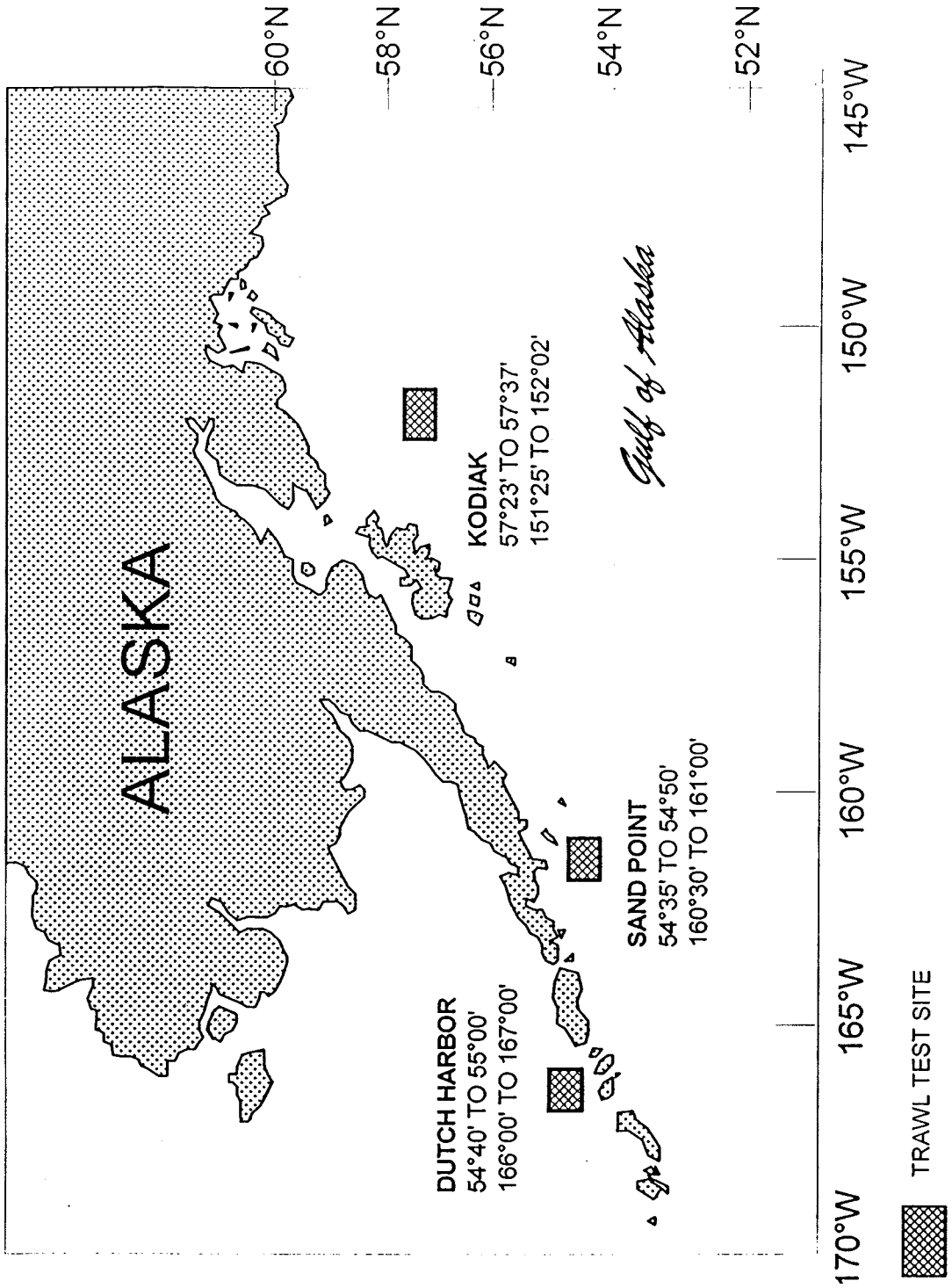

Figure 7 to Part 679. Location of Trawl Gear Test Areas in the GOA and the BSAI

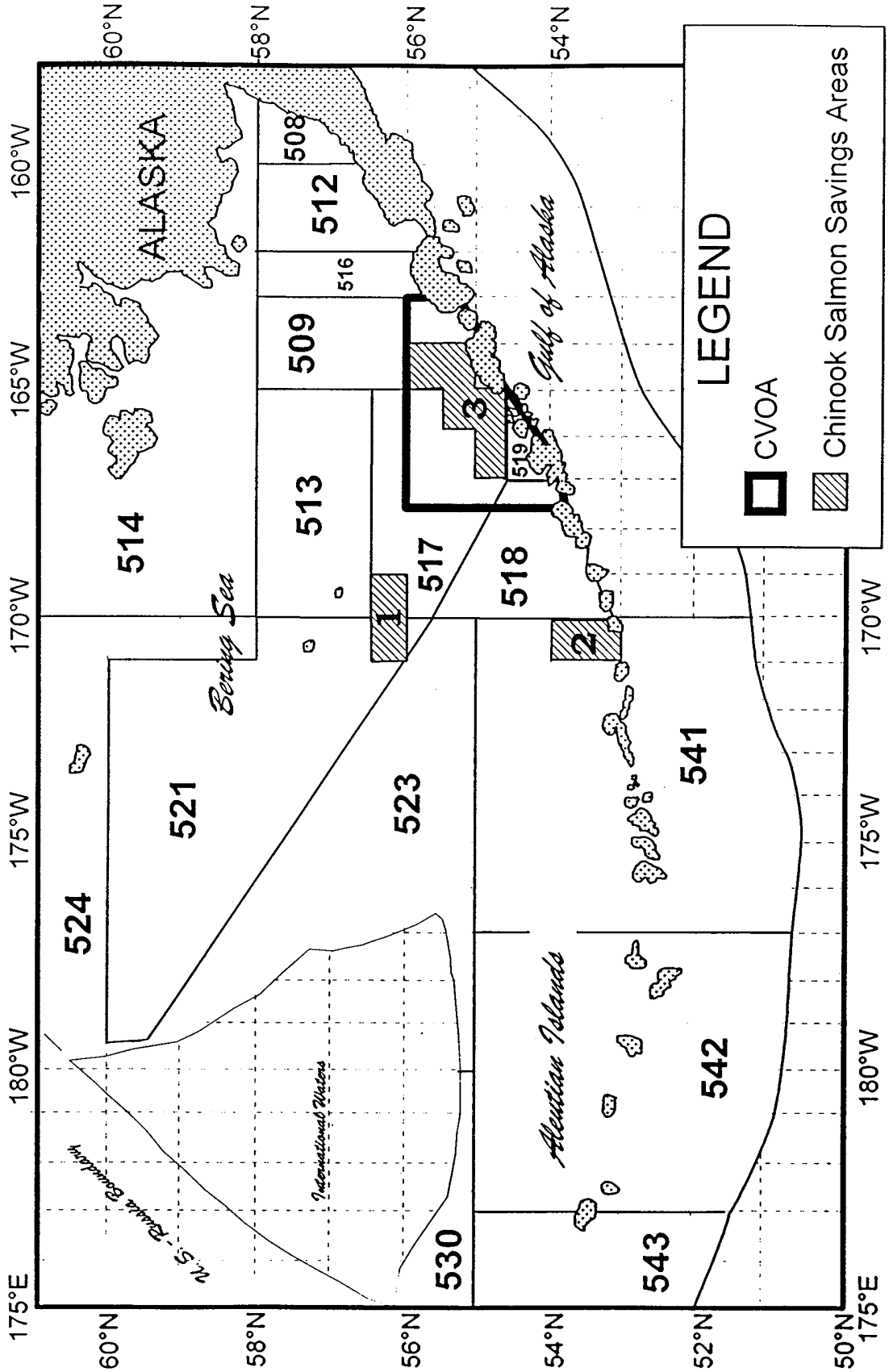

Figure 8 to Part 679. Chinook Salmon Savings Area of the BSAI.
a. Map

BILLING CODE 3510–22–C

Figure 8 to Part 679.—Chinook Salmon Savings Areas of the BSAI

b. Coordinates

The Chinook Salmon Savings Area is defined in the following three areas of the BSAI:

(*1*) The area defined by straight lines connecting the following coordinates in the order listed:

56°30′ N. lat., 171°00′ W. long.
56°30′ N. lat., 169°00′ W. long.
56°00′ N. lat., 169°00′ W. long.
56°00′ N. lat., 171°00′ W. long.
56°30′ N. lat., 171°00′ W. long.

(*2*) The area defined by straight lines connecting the following coordinates in the order listed:

54°00′ N. lat., 171°00′ W. long.
54°00′ N. lat., 170°00′ W. long.
53°00′ N. lat., 170°00′ W. long.
53°00′ N. lat., 171°00′ W. long.
54°00’ N. lat., 171°00′ W. long.

(*3*) The area defined by straight lines connecting the following coordinates in the order listed:

56°00′ N. lat., 165°00′ W. long.
56°00′ N. lat., 164°00′ W. long.
55°00′ N. lat., 164°00′ W. long.
55°00′ N. lat., 165°00′ W. long.
54°30′ N. lat., 165°00′ W. long.
54°30′ N. lat., 167°00′ W. long.
55°00′ N. lat., 167°00′ W. long.
55°00′ N. lat., 166°00′ W. long.
55°30′ N. lat., 166°00′ W. long.
55°30′ N. lat., 165°00′ W. long.
56°00′ N. lat., 165°00′ W. long.

BILLING CODE 3510–22–P

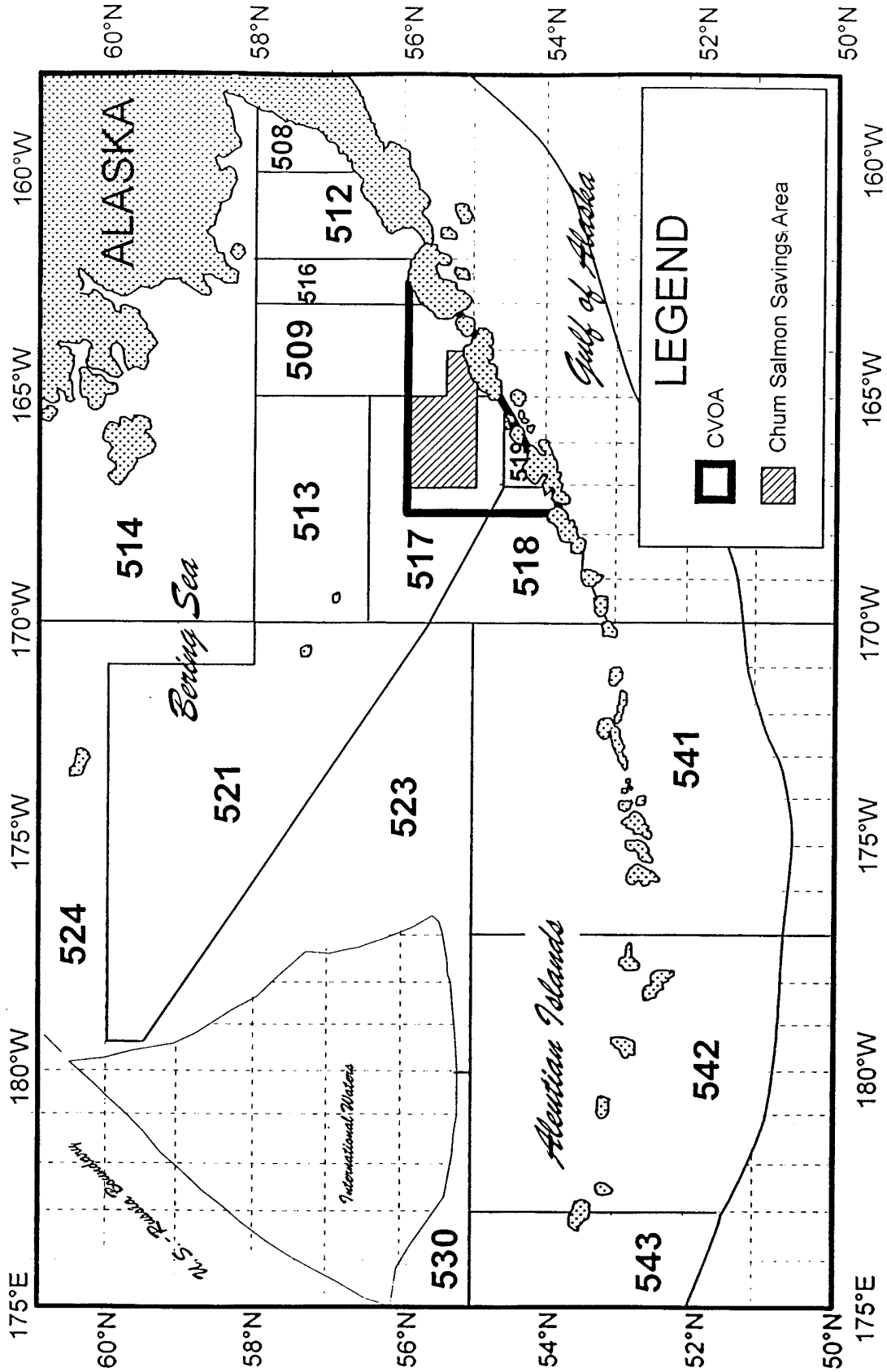

Figure 9 to Part 679. Chum Salmon Savings Area of the BSAI CVOA

a. Map

BILLING CODE 3510–22–C

Figure 9 to Part 679.—Chum Salmon Savings Area (CSSA) of the BSAI CVOA

b. Coordinates

The CSSA is an area defined as that portion of the Bering Sea Subarea described by straight lines connecting the following coordinates in the order listed:

56°00′ N. lat. 167°00′ W. long.
56°00′ N. lat. 165°00′ W. long.
55°30′ N. lat. 165°00′ W. long.
55°30′ N. lat. 164°00′ W. long.
55°00′ N. lat. 164°00′ W. long.
55°00′ N. lat. 167°00′ W. long.
56°00′ N. lat. 167°00′ W. long.

BILLING CODE 3510–22–P

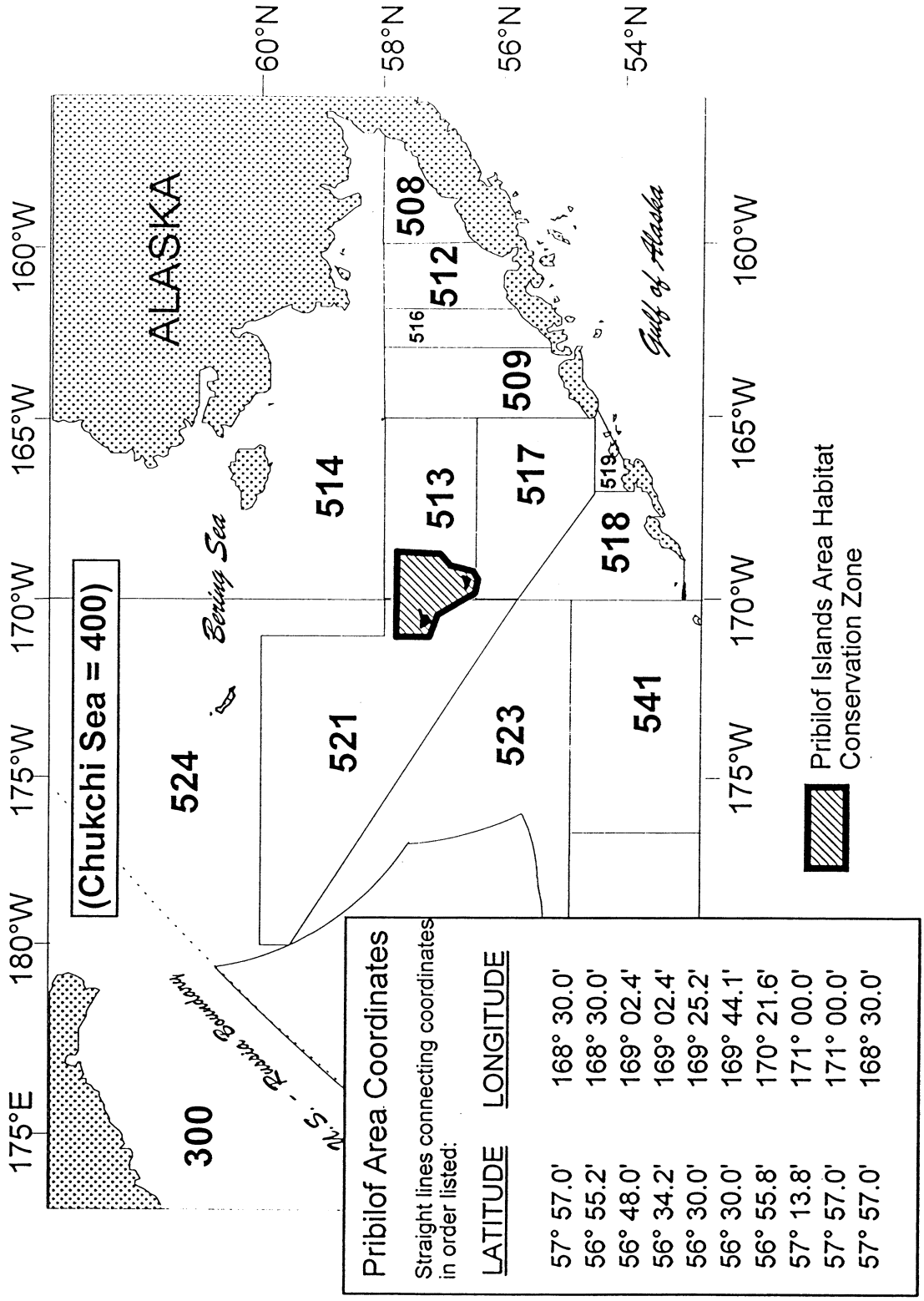

Figure 10 to Part 679. Pribilof Islands Area Habitat Conservation Zone in the Bering Sea

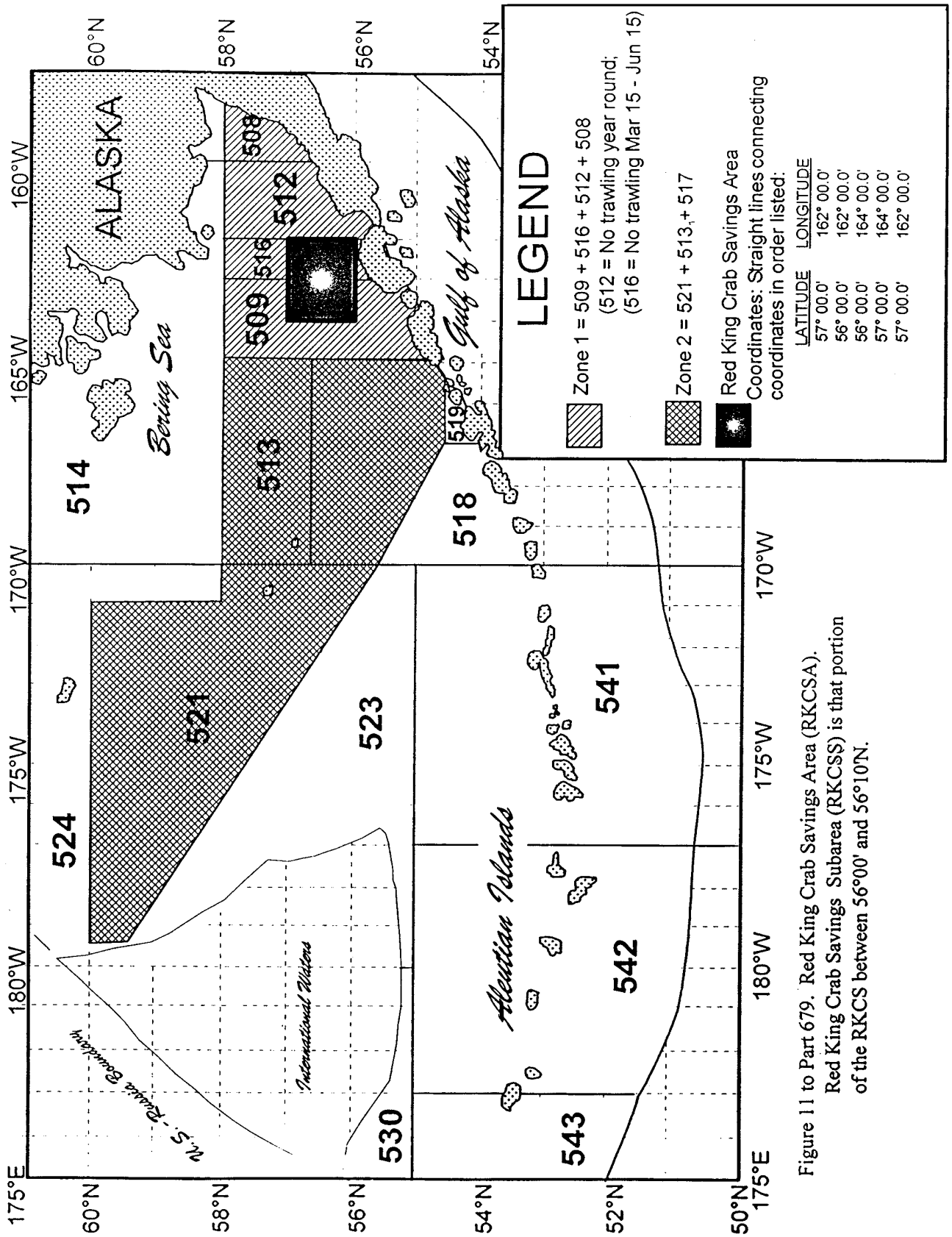

Figure 11 to Part 679. Red King Crab Savings Area (RKCSA). Red King Crab Savings Subarea (RKCSS) is that portion of the RKCS between 56°00' and 56°10'N.

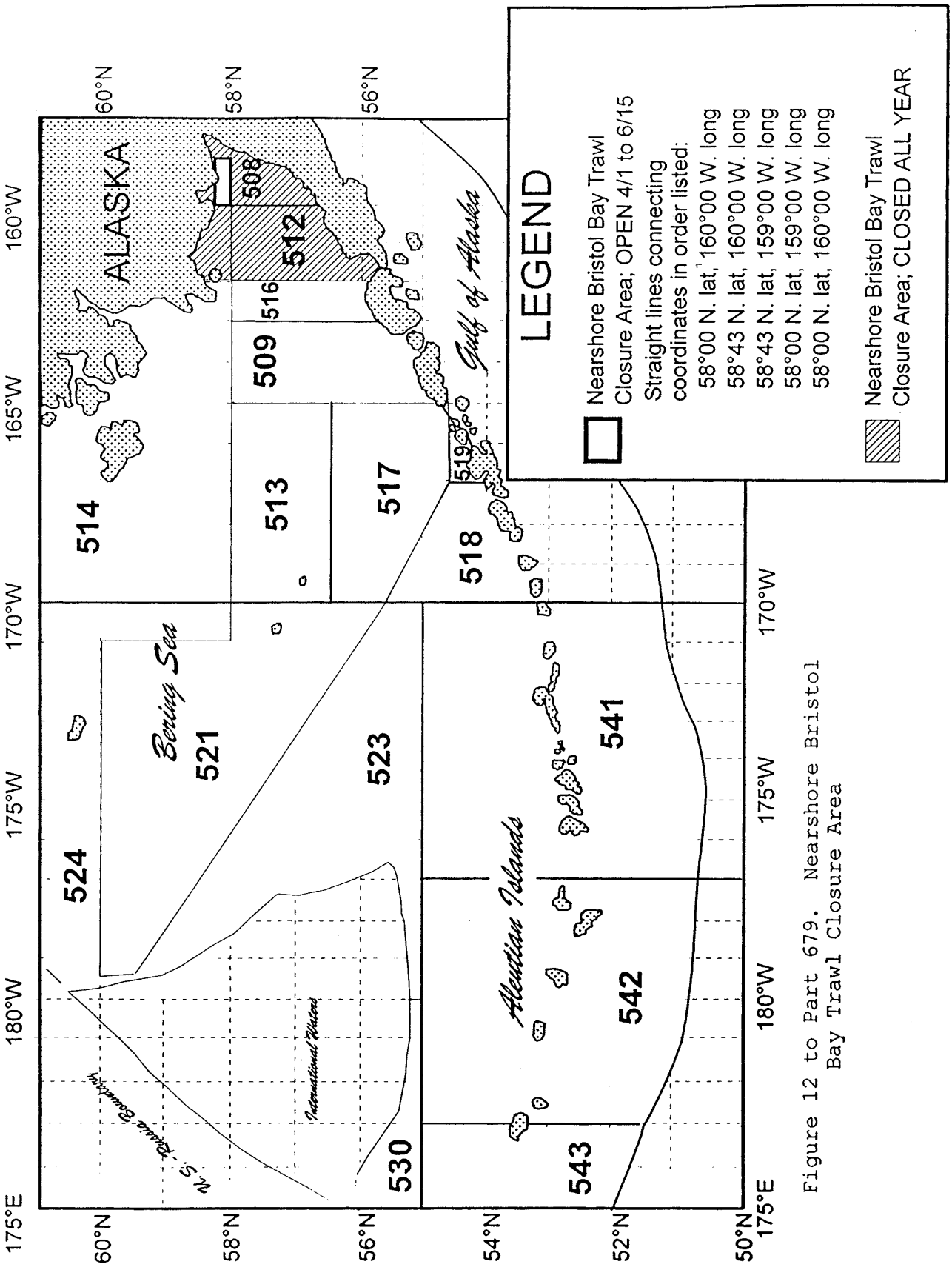

Figure 12 to Part 679. Nearshore Bristol Bay Trawl Closure Area

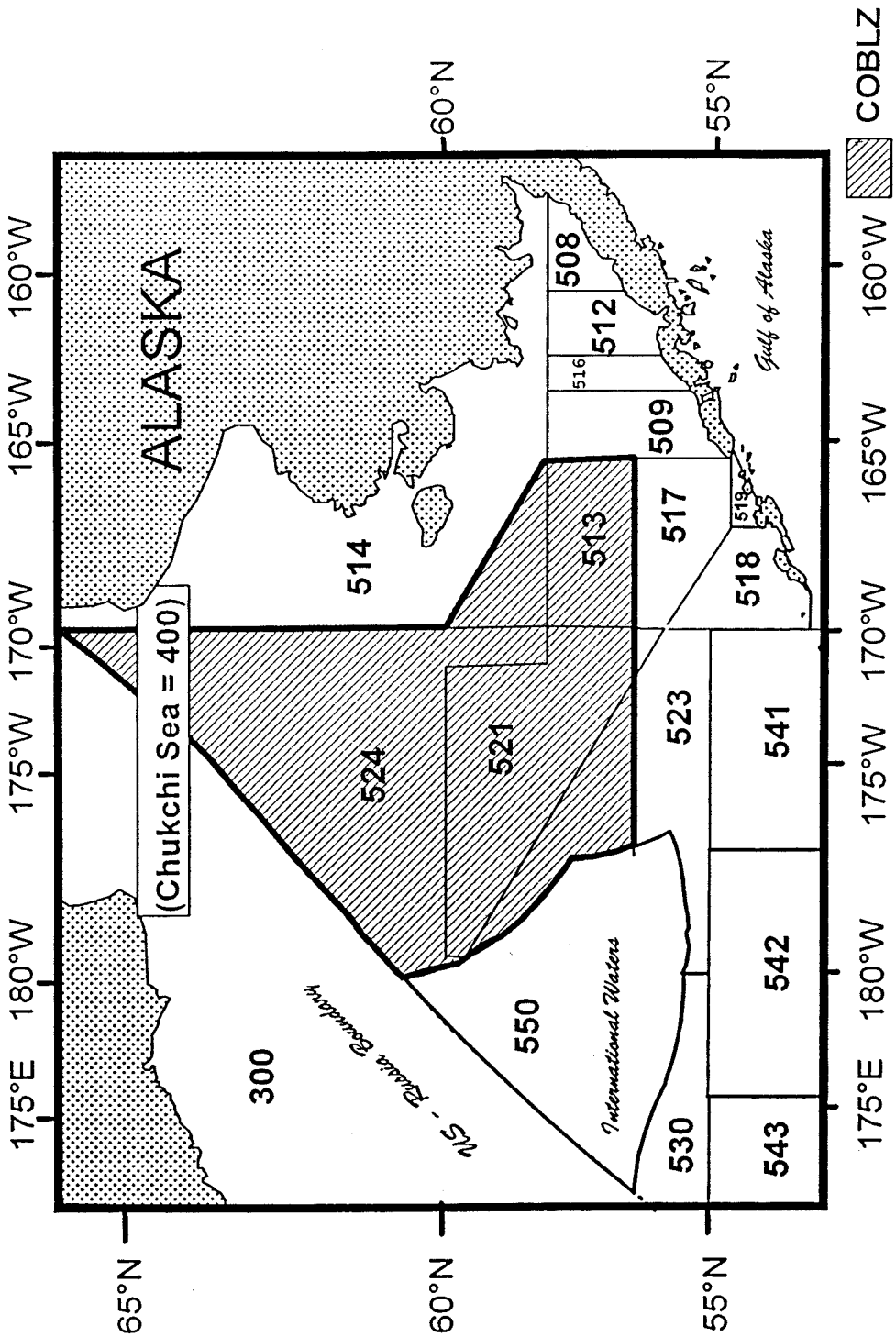

Figure 13 to Part 679. BSAI C. Opilio Crab Bycatch Limitation Zone (COBLZ)

a. Map

BILLING CODE 3510–22–C

Figure 13 to Part 679.—BSAI C. Opilio Crab Bycatch Limitation Zone (COBLZ)

b. Coordinates

The COBLZ is an area defined as that portion of the Bering Sea Subarea north of 56°30′ N. lat. that is west of a line connecting the following coordinates in the order listed:

56° 30′ N. lat., 165° 00′ W. long.
58° 00′ N. lat., 165° 00′ W. long.
59° 30′ N. lat., 170° 00′ W. long.

and north along 170° 00′ W. long. to its intersection with the U.S.-Russia Boundary.

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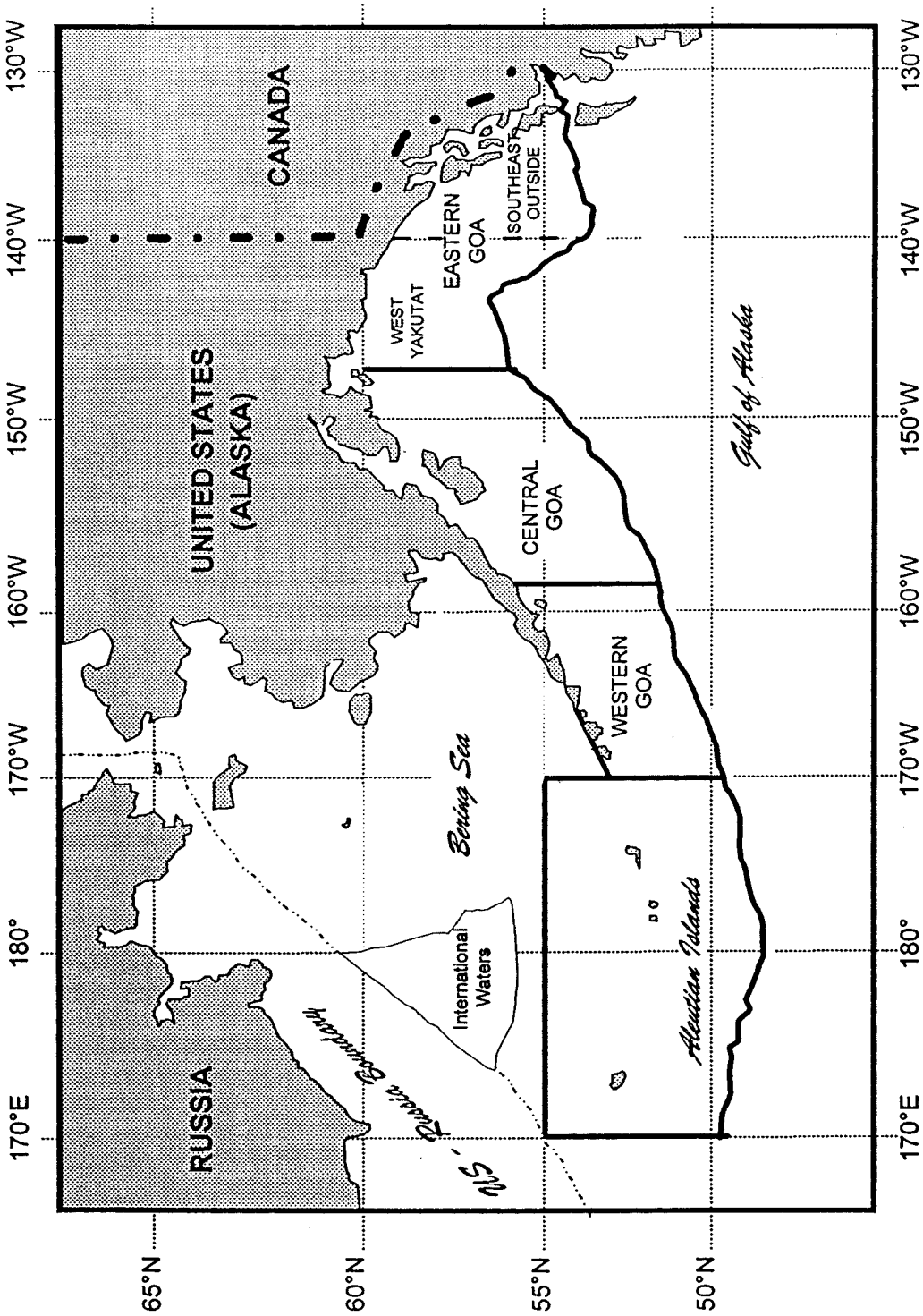

Figure 14 to Part 679. Sablefish Regulatory Areas and Districts

NOTE: Refer to Figures 1 and 3 for coordinates.

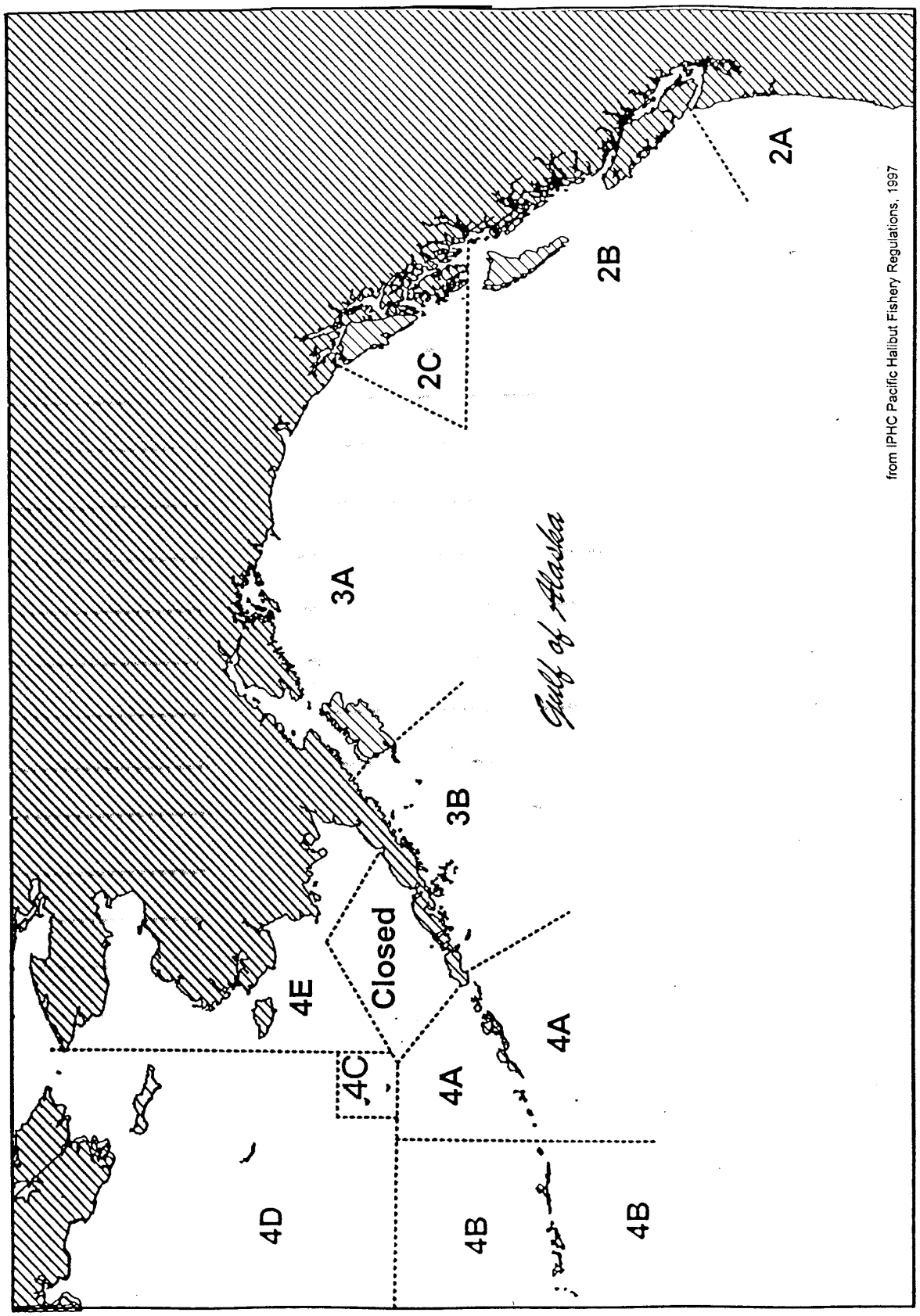

Figure 15 to Part 679. Regulatory Areas for the Pacific Halibut Fishery
a. Map

BILLING CODE 3510–22–C

Figure 15 to Part 679.— Regulatory Areas for the Pacific Halibut Fishery

b. Coordinates

Area 2A includes all waters off the states of California, Oregon, and Washington;

Area 2B includes all waters off British Columbia;

Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11′57″ N. lat., 136°38′18″ W. long.) and south and east of a line running 205° true from said light;

Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41′15″ N. lat., 155°35′00″ W. long.) to Cape Ikolik (57°17′17″ N. lat., 154°47′18″ W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44′50″ N. lat., 154°08′44″ W. long.), then 140° true;

Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29′00″ N. lat., 164°20′00″ W. long.) and south of 54°49′00″ N. lat. in Isanotski Strait;

Area 4A includes all waters in the GOA west of Area 3B and in the Bering Sea west of the closed area defined below that are east of 172°00′00″ W. long. and south of 56°20′00″ N. lat.;

Area 4B includes all waters in the Bering Sea and the GOA west of Area 4A and south of 56°20′00″ N. lat.;

Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined below which are east of 171°00′00″ W. long., south of 58°00′00″ N. lat., and west of 168°00′00″ W. long.;

Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00′00″ W. long.;

Area 4E includes all waters in the Bering Sea north and east of the closed area defined below, east of 168°00′00″ W. long., and south of 65°34′00″ N. lat.

Closed areas

All waters in the Bering Sea north of 54°49′00″ N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36′00″ N. lat., 164°55′42″ W. long.) to a point at 56°20′00″ N. lat., 168°30′00″ W. long.; thence to a point at 58°21′25″ N. lat., 163°00′00″ W. long.; thence to Strogonof Point (56°53′18″ N. lat., 158°50′37″ W. long.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light.

In Area 2A, all waters north of Point Chehalis, WA (46°53′18″ N. lat.).

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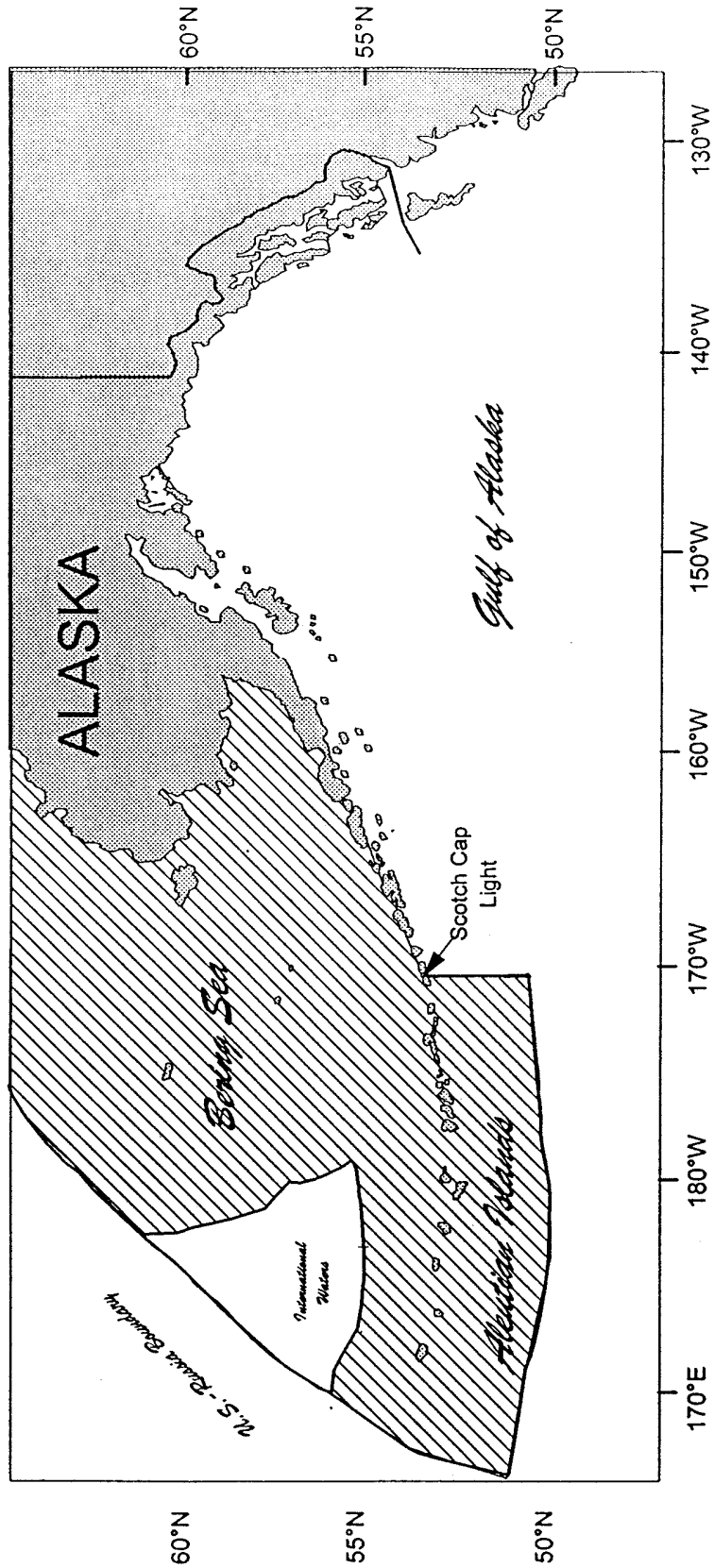

Figure 16 to Part 679. BSAI C. opilio and C. bairdi tanner crab endorsement areas. Waters east of the U.S.-Russian Convention Line of 1867 excluding all GOA waters east of a boundary extending south from Scotch Cap Light (54°36' N. lat., 164°44' W. long.).

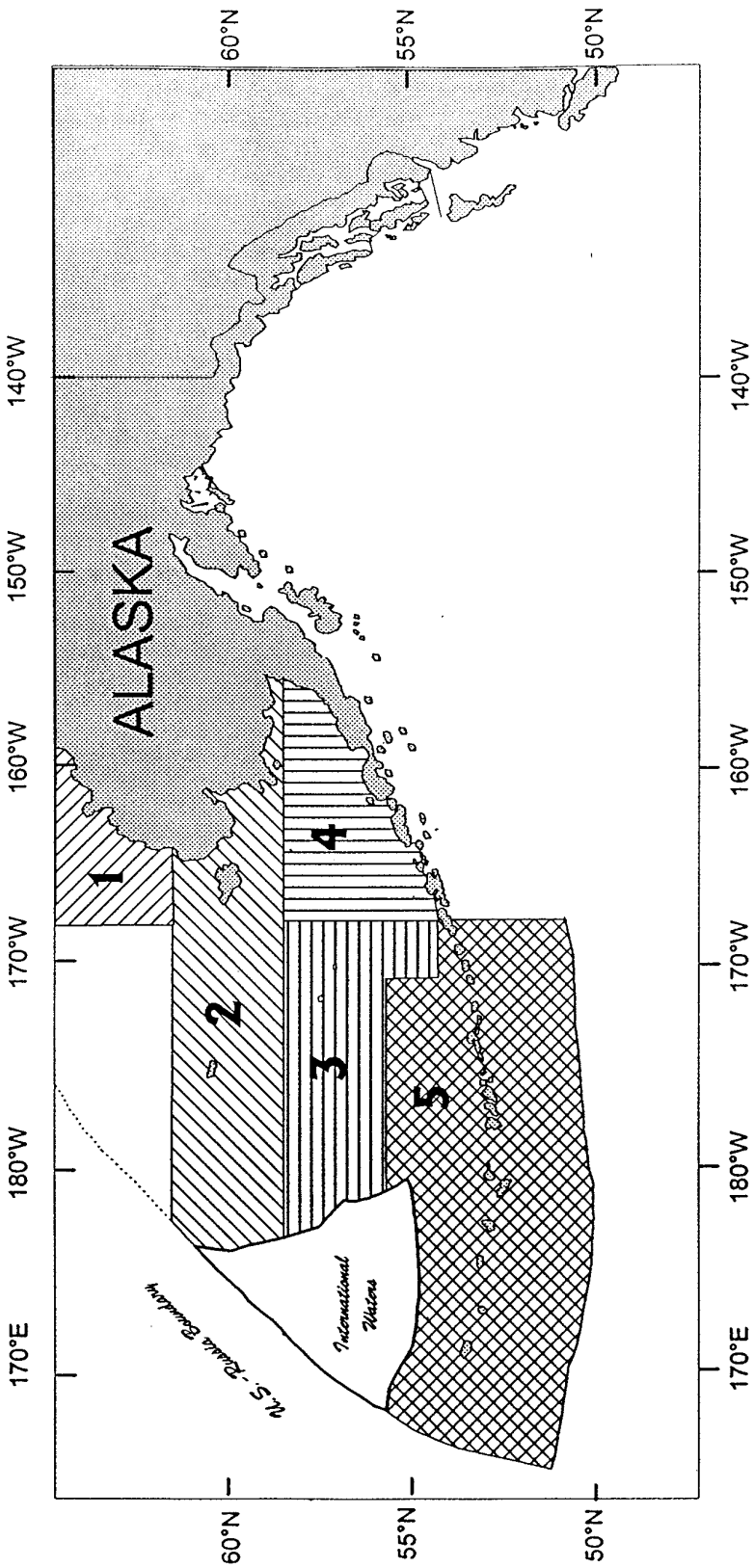

Figure 17 to Part 679. BSAI King crab endorsement areas
a. Map

BILLING CODE 3510–22–C

Figure 17 to Part 679.—BSAI King Crab Endorsement Areas

b. Coordinates

1. *Norton Sound Red King Crab and Blue King Crab Area*
   Area defined by a northern boundary of 65°36′ N. lat., along the east side of continental Alaska, a southern boundary of 61°49′ N. lat., and a western boundary of 168° W. long.
2. *St. Matthew Blue King Crab Area*
   Area defined by a northern boundary of 61°49′ N. lat., along the east side of continental Alaska, a southern boundary of 58°39′ N. lat., and a western boundary of the U.S.-Russian Convention Line of 1867.
3. *Pribilof Red King Crab and Blue King Crab Area*
   Area defined by a northern boundary of 58°39′ N. lat., an eastern boundary of 168° W. long. south to 54°36′ N. lat., then westward to (54°36′ N. lat., 171° W. long.), then north to (55°30′ N. lat., 171° W. long.), then westward to the western boundary of the U.S.-Russian Convention Line of 1867.
4. *Bristol Bay Red King Crab Area*
   Area defined by a northern boundary of 58°39′ N. lat., along the east side of continental Alaska, a southern boundary of 54°36′ N. lat., and a western boundary of 168° W. long. and including all waters of Bristol Bay.
5. *Aleutian Islands Brown King Crab and Red King Crab Area*
   Area defined by a northern boundary of 55°30′ N. lat. eastward to 171° W. long., then south to Cape Sarichef (54°36′ N. lat., 171° W. long.), then east to Scotch Cap Light (54°36′ N. lat., 164°44′ W. long.), bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands), and a western boundary of the U.S.-Russian Convention Line of 1867.

TABLE 1 TO PART 679.—PRODUCT CODES

Fish product code/description
03. *Bled only.* Throat, or isthmus, slit to allow blood to drain.
04. *Gutted, head on.* Belly slit and viscera removed.
05. *Gutted, head off.* IFQ Pacific halibut only.
06. *Head and gutted, with roe.*
07. *Headed and gutted, Western cut.* Head removed just in front of the collar bone, and viscera removed.
08. *Headed and gutted, Eastern cut.* Head removed just behind the collar bone, and viscera removed.
10. *Headed and gutted, tail removed.* Head removed usually in front of collar bone, and viscera and tail removed.
11. *Kirimi.* Head removed either in front or behind the collar bone, viscera removed, and tail removed by cuts perpendicular to the spine, resulting in a steak.
12. *Salted and split.* Head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail. Product salted.
13. *Wings.* On skates, side fins are cut off next to body.
14. *Roe.* Eggs, either loose or in sacs, or skeins.
15. *Pectoral girdle.* Collar bone and associated bones, cartilage and flesh.
16. *Heads.* Heads only, regardless where severed from body.
17. *Cheeks.* Muscles on sides of head.
18. *Chins.* Lower jaw (mandible), muscles, and flesh.
19. *Belly.* Flesh in region of pelvic and pectoral fins and behind head.
20. *Fillets with skin and ribs.* Meat and skin with ribs attached, from sides of body behind head and in front of tail.
21. *Fillets with skin, no ribs.* Meat and skin with ribs removed, from sides of body behind head and in front of tail.
22. *Fillets with ribs and no skin.* Meat with ribs with skin removed, from sides of body behind head and in front of tail.
23. *Fillets, skinless/boneless.* Meat with both skin and ribs removed, from sides of body behind head and in front of tail.
24. *Deep-skin fillet.* Meat with skin, adjacent meat with silver lining, and ribs removed from sides of body behind head and in front of tail, resulting in thin fillets.
30. *Surimi.* Paste from fish flesh and additives.
31. *Minced.* Ground flesh.
32. *Fish meal.* Meal from whole fish or fish parts; includes bone meal.
33. *Fish oil.* Rendered oil from whole fish or fish parts.
34. *Milt.* (in sacs, or testes).
35. *Stomachs.* Includes all internal organs.
36. *Octopus/squid mantles.* Flesh after removal of viscera and arms.
37. *Butterfly, no backbone.* Head removed, belly slit, viscera and most of backbone removed; fillets attached.
39. *Bones* (if meal, report as 32).
54. *Gutted, head on, with ice and slime.* Belly slit and viscera removed. IFQ Pacific halibut and sablefish only.
55. *Gutted, head off, with ice and slime.* IFQ Pacific halibut only.
57. *Headed and gutted, Western cut, with ice and slime.* IFQ sablefish only.
58. *Headed and gutted, Eastern cut, with ice and slime.* IFQ sablefish only.
86. *Donated prohibited species.* Number of Pacific salmon or Pacific halibut, otherwise required to be discarded, that is donated to charity under a NMFS-authorized program.
97. *Other retained product.* (provide description)
WHOLE FISH CODES
When using the following codes, log round weights and not product weights, even if the whole fish is not used.
01. *Whole fish/food fish.*
02. *Whole fish/bait.* Processed for bait. Sold.
41. *Whole fish/destined for offsite fish meal production.*
51. *Whole fish/food fish with ice and slime.* IFQ sablefish only.
92. *Whole fish/onboard bait.* Whole fish used as bait on board vessel. Not sold.
93. *Whole fish/damaged.* Whole fish damaged by observer's sampling procedures.
95. *Whole fish/personal use, consumption.* Fish or fish products eaten on board or taken off the vessel for personal use. Not sold or utilized as bait.

TABLE 1 TO PART 679.—PRODUCT CODES—Continued

Fish product code/description	
DISCARD PRODUCT CODES	
96.	*Discard, decomposed.* Flea-infested fish, parasite-infested fish, decomposed, or previously discarded fish.
98.	*Discard, at sea.* Whole groundfish and prohibited species discarded by catcher vessels, Catcher/Processors, Motherships, or Buying Stations delivering to Motherships.
99.	*Discard, onshore.* Discard after delivery and before processing by Shoreside Processors and Buying Stations delivering to Shoreside Processors and in-plant discard of whole groundfish and prohibited species during processing.
PRODUCT DESIGNATION (see 679.2)	
A	*Ancillary.*
P	*Primary.*
R	*Reprocessed or rehandled.*

TABLE 2 TO PART 679.—SPECIES CODES

Code	Species description
110	Cod, Pacific
121	Flounder, Arrowtooth and/or Kamchatka
122	Sole, flathead
123	Sole, rock
124	Sole, Dover
125	Sole, Rex
126	Sole, butter
127	Sole, yellowfin
128	Sole, English
129	Flounder starry
130	Lingcod
131	Sole, Petrale
132	Sole, sand
133	Flounder, Alaska Plaice
134	Turbot, Greenland
135	Rockfish greenstriped
136	Rockfish, northern
137	Rockfish, Bocaccio
138	Rockfish, copper
141	Perch, Pacific Ocean (S. alutus only)
142*	Rockfish, black
143	Rockfish thornyhead (all Sebastolobus species)
145	Rockfish yelloweye
146	Rockfish, canary
147	Rockfish, quillback
148	Rockfish, tiger
149	Rockfish, China
150	Rockfish, rosethorn
151	Rockfish, rougheye
152	Rockfish, shortraker
153	Rockfish, redbanded
154	Rockfish, dusky
155	Rockfish, yellowtail
156	Rockfish, widow
157	Rockfish silvergray
158	Rockfish, redstripe
159	Rockfish, darkblotched
160	Sculpins
166	Rockfish, sharpchin
167*	Rockfish, blue
170*	Sardine, Pacific (pilchard)
175	Rockfish, yellowmouth
176	Rock, Harlequin
177	Rockfish, blackgill
178	Rockfish, chilipepper
179	Rockfish, pygmy
180*	Shad
181	Rockfish, shortbelly
182	Rockfish, splitnose
183	Rockfish, stripetail
184	Rockfish, vermilion
185	Rockfish, Aurora
190*	Greenling, general
191*	Greenling, rock
192*	Greenling, whitespot

TABLE 2 TO PART 679.—SPECIES CODES—Continued

Code	Species description
193	Atka mackerel (greenling)
194*	Greenling, kelp
206	Pacific Sand fish (family *Trichodontidae*)
207	Gunnels (family *Pholidae*)
208	Pricklebacks, warbonnets, eelblennys, cockscombs and Shannys (family *Stichaeidae*)
209	Bristlemouths, lightfishes, and anglemouths (family *Gonostomatidae*)
210*	Eels or eel-like fish
211*	Wrymouths
212*	Pacific hagfish
213*	Grenadier (rattail)
214*	Giant grenadier
220*	Pacific saury
250*	Pacific tomcod
260*	Cod, longfin
270	Pollock
510	Smelt, general
511	Eulachon smelt (family *Osmeridae*)
516	Capelin smelt (family *Osmeridae*)
521*	Arctic char, anadromous
531*	Dolly varden, anadromous
600*	Lamprey, pacific
689	Sharks, general
690*	Shark, salmon
691*	Shark, spiny dogfish
692*	Shark, Pacific sleeper
700	Skates, general
710	Sablefish (blackcod)
720*	Tuna, albacore
772	Laternfishes (family *Myctophidae*)
773	Deep-sea smelts (family *Bathylagidae*)
774	Pacific Sand lance (family *Ammodytidae*)
800	Krill (order *Euphausiacea*)
810*	Clam, butter
812*	Clam, surf
815*	Clam, geoduck
820*	Clam, cockle
830*	Clam, razor
840*	Clam, little-neck
842*	Clam, eastern softshell
850*	Scallop, weathervane
851*	Scallop, pink (or calico)
855*	Mussel, blue
860*	Abalone
870	Octopus
875	Squid
880*	Oysters
890*	Snails
895*	Sea cucumber
896*	Sea urchin
899*	Coral
900*	Crab, box
910*	Crab, dungeness
940*	Crab, Korean horsehair
960*	Shrimp, general
961*	Shrimp, pink
962*	Shrimp, sidestripe
963*	Shrimp, humpy
964*	Shrimp, coonstripe
965*	Shrimp, spot
	GROUP CODES
120	Miscellaneous flatfish (all flatfish without separate codes)
144	*Slope rockfish* (aurora, blackgill, Bocaccio, redstripe, silvergray, chilipepper, darkblotched, greenstriped, harlequin, pygmy, shortbelly, splitnose, stripetail, vermillion, yellowmouth, sharpchin)
168	*Demersal shelf rockfish* (china, copper, quillback, rosethorn, tiger, yelloweye, canary)
169	*Pelagic shelf rockfish* (dusky, yellowtail, widow)
171	Shortraker/rougheye rockfish
888	Mixed species tote (for use only on Product Transfer Report)
	PROHIBITED SPECIES CODES
200	Pacific halibut
235	Pacific herring (Family of *Clupeidae*)
410	Salmon, Chinook

TABLE 2 TO PART 679.—SPECIES CODES—Continued

Code	Species description
420	Salmon, Sockeye
430	Salmon, Coho
440	Salmon, Pink
450	Salmon, Chum
540	Steelhead trout
921	Crab, red king
922	Crab, blue king
923	Crab, gold/brown king
924	Crab, scarlet king
931	Crab, bairdi Tanner
932	Crab, opilio Tanner
933	Crab, Tanner, grooved
934	Crab, Tanner, triangle

*ADF&G species codes.

TABLE 3 TO PART 679.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES AND CONVERSION RATES FOR PACIFIC HALIBUT

[Sheet 1 of 3]

FMP species	Product code												
	Species code	1, 2, 41, 92, 93, 95 Whole fish	3 Bled	4 Gutted head on	5 Gutted head off	6 H&G with roe	7 H&G western cut	8 H&G eastern cut	10 H&G w/o tail	11 Kirimi	12 Salted & split	13 Wings	14 Roe
PACIFIC COD	110	1.00	0.98	0.85	.....	0.63	0.57	0.47	0.44	.....	0.45	.....	0.05
ARROWTOOTH FLOUNDER	121	1.00	0.98	0.90	.....	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
FLATHEAD SOLE	122	1.00	0.98	0.90	.....	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
ROCK SOLE	123	1.00	0.98	0.90	.....	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
DOVER SOLE	124	1.00	0.98	0.90	.....	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
REX SOLE	125	1.00	0.98	0.90	.....	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
YELLOWFIN SOLE	127	1.00	0.98	0.90	.....	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
GREENLAND TURBOT	134	1.00	0.98	0.90	.....	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
THORNYHEAD ROCKFISH	143	1.00	0.98	0.88	.....	0.55	0.60	0.50	.....	.....	.....	.....	.....
SCULPINS	160	1.00	0.98	0.87	.....	.....	0.50	0.40	.....	.....	.....	.....	.....
ATKA MACKEREL	193	1.00	0.98	0.87	.....	0.67	0.64	0.61	.....	.....	.....	.....	.....
POLLOCK	270	1.00	0.98	0.80	.....	0.70	0.65	0.56	0.50	.....	.....	.....	0.07
SMELTS	510	1.00	0.98	0.82	.....	.....	0.71	.....	.....	.....	.....	.....	.....
EULACHON	511	1.00	0.98	0.82	.....	.....	0.71	.....	.....	.....	.....	.....	.....
CAPELIN	516	1.00	0.98	0.89	.....	.....	0.78	.....	.....	.....	.....	.....	.....
SHARKS	689	1.00	0.98	0.83	.....	.....	0.72	.....	.....	.....	.....	.....	.....
SKATES	700	1.00	0.98	0.90	.....	.....	.....	0.32	.....	.....	.....	0.32	.....
SABLEFISH	710	1.00	0.98	0.89	.....	.....	0.68	0.63	0.50	.....	.....	.....	.....
IFQ SABLEFISH	710	1.00	0.98	0.89	.....	.....	0.68	0.63	0.50	.....	.....	.....	.....
OCTOPUS	870	1.00	0.98	0.69	.....	.....	.....	.....	.....	.....	.....	.....	.....
SQUID	875	1.00	0.98	0.69	.....	.....	.....	.....	.....	.....	.....	.....	.....
ROCKFISH**	.....	1.00	0.98	0.88	.....	.....	0.60	0.50	.....	.....	.....	.....	.....
Conversion rates for PACIFIC HALIBUT	200	.....	.....	0.90	1.0	.....	.....	.....	.....	.....	.....	.....	.....

TABLE 3 TO PART 679.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES AND CONVERSION RATES FOR PACIFIC HALIBUT

[Sheet 2 of 3]

FMP species	Product code												
	Species code	15 Pectoral girdle	16 Heads	17 Cheeks	18 Chins	19 Belly	20 Fillets w/skin & ribs	21 Fillets w/skin no ribs	22 Fillets w/ribs no skin	23 Fillets skin-less/ bnless	24 Fillets deep skin	30 Surimi	31 Mince
PACIFIC COD	110	0.05	.....	0.05	.....	0.01	0.45	0.35	0.25	0.25	.....	0.15	0.5
ARROWTOOTH FLOUNDER	121	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....
FLATHEAD SOLE	122	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....
ROCK SOLE	123	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....
DOVER SOLE	124	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....
REX SOLE	125	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....
YELLOWFIN SOLE	127	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	0.18	.....
GREENLAND TURBOT	134	.....	.....	.....	.....	.....	0.32	0.27	0.27	0.22	.....	.....	.....
THORNYHEAD ROCKFISH	143	.....	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	.....	.....	.....
SCULPINS	160	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
ATKA MACKEREL	193	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.15	.....
POLLOCK	270	.....	0.15	.....	.....	.....	0.35	0.30	0.30	0.21	0.16	0.16[1]; 0.17[2]	0.22
SMELTS	510	.....	.....	.....	.....	.....	.....	0.38	.....	.....	.....	.....	.....
EULACHON	511	.....	.....	.....	.....	.....	.....	0.38	.....	.....	.....	.....	.....
CAPELIN	516	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
SHARKS	689	.....	.....	.....	.....	.....	.....	0.30	0.30	0.25	.....	.....	.....
SKATES	700	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
SABLEFISH	710	.....	.....	0.05	.....	.....	0.35	0.30	0.30	0.25	.....	.....	.....
IFQ SABLEFISH	710	.....	.....	0.05	.....	.....	0.35	0.30	0.30	0.25	.....	.....	.....
OCTOPUS	870	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
SQUID	875	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
ROCKFISH**	.....	.....	0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25	.....	.....	.....
Conversion rates for PACIFIC HALIBUT	200	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

TABLE 3 TO PART 679.—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES AND CONVERSION RATES FOR PACIFIC HALIBUT

[Sheet 3 of 3]

FMP species	Product code													
	Species code	32 Meal	33 Oil	34 Milt	35 Stomachs	36 Mantles	37 Butterfly backbone removed	51 Wholefish w/I&S	54 Gutted, head on w/I&S	55 Gutted, head off w/I&S	57 H&G western w/I&S	58 H&G eastern w/I&S	96 Decomposed fish	98, 99 Discards
PACIFIC COD	110	0.17	.....	.....	.....	.....	0.43	.....	.....	.....	.....	.....	0.00	1.00
ARROWTOOTH FLOUNDER	121	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
FLATHEAD SOLE	122	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
ROCK SOLE	123	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
DOVER SOLE	124	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
REX SOLE	125	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
YELLOWFIN SOLE	127	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
GREENLAND TURBOT	134	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
THORNYHEAD ROCKFISH	143	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
SCULPINS	160	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
ATKA MACKEREL	193	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
POLLOCK	270	0.17	.....	.....	.....	.....	0.43	.....	.....	.....	.....	.....	0.00	1.00
SMELTS	510	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
EULACHON	511	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
CAPELIN	516	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
SHARKS	689	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
SKATES	700	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
SABLEFISH	710	0.17	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
IFQ SABLEFISH	710	0.17	.....	.....	.....	.....	.....	1.02	0.91	.....	0.70	0.65	0.00	1.00
OCTOPUS	870	0.17	.....	.....	.....	0.85	.....	.....	.....	.....	.....	.....	0.00	1.00
SQUID	875	0.17	.....	.....	.....	0.75	.....	.....	.....	.....	.....	.....	0.00	1.00
ROCKFISH**	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	0.00	1.00
Conversion rates for PACIFIC HALIBUT	200	.....	.....	.....	.....	.....	.....	.....	0.88	0.98	.....	.....	0.00	1.00

Note: To obtain round weight of groundfish, divide the product weight of groundfish by a PRR. To obtain IFQ net weight of Pacific halibut, multiply the product weight of halibut by a conversion rate.

[1] Standard pollock surimi rate during January through June.

[2] Standard pollock surimi rate during July through December.

TABLE 5 TO PART 679.—ALEUTIAN ISLANDS SUBAREA STELLER SEA LION PROTECTION AREAS

Name of island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at § 227.12(a)(2) of this title				
a. *Trawling Prohibited Year-Round Within 10 nm:*				
Yunaska Island	52°42.0′ N	170°38.5′ W	52°41.0′ N	170°34.5′ W
Kasatochi Island	52°10.0′ N	175°31.0′ W	52°10.5′ N	175°29.0′ W
Adak Island	51°36.5′ N	176°59.0′ W	51°38.0′ N	176°59.5′ W
Gramp Rock	51°29.0′ N	178°20.5′ W		
Tag Island	51°33.5′ N	178°34.5′ W		
Ulak Island	51°20.0′ N	178°57.0′ W	51°18.5′ N	178°59.5′ W
Semisopochnoi	51°58.5′ N	179°45.5′ E	51°57.0′ N	179°46.0′ E
Semisopochnoi	52°01.5′ N	179°37.5′ E	52°01.5′ N	179°39.0′ E
Amchitka Island	51°22.5′ N	179°28.0′ E	51°21.5′ N	179°25.0′ E
Amchitka Is/Column Rocks	51°32.5′ N	178°49.5′ E		
Ayugadak Point	51°45.5′ N	178°24.5′ E		
Kiska Island	51°57.5′ N	177°21.0′ E	51°56.5′ N	177°20.0′ E
Kiska Island	51°52.5′ N	177°13.0′ E	51°53.5′ N	177°12.0′ E
Buldir Island	52°20.5′ N	175°57.0′ E	52°23.5′ N	175°51.0′ E
Agattu Is./Gillon Pt	52°24.0′ N	173°21.5′ E		
Agattu Island	52°23.5′ N	173°43.5′ E	52°22.0′ N	173°41.0′ E
Attu Island	52°54.5′ N	172°28.5′ E	52°57.5′ N	172°31.5′ E
b. *Trawling Prohibited Year-Round Within 20 nm:*				
Seguam Island	52°21.0′ N	172°35.0′ W	52°21.0′ N	172°33.0′ W

TABLE 5 TO PART 679.—ALEUTIAN ISLANDS SUBAREA STELLER SEA LION PROTECTION AREAS—Continued

Name of island	From		To	
	Latitude	Longitude	Latitude	Longitude
Agligadak Island	52°06.5′ N	172°54.0′ W		

Note: Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

TABLE 8 TO PART 679.—HARVEST ZONE CODES FOR USE WITH PRODUCT TRANSFER REPORTS AND VESSEL ACTIVITY REPORTS

Harvest zone	Description
A	EEZ off Alaska.
B	State waters of Alaska.
C	State waters other than Alaska.
D	Donut Hole.
F	Foreign Waters Other than Russia.
I	International Waters other than Donut Hole and Seamounts.
R	Russian waters.
S	Seamounts in International waters.
U	U.S. EEZ other than Alaska.

TABLE 9 TO PART 679.—REQUIRED LOGBOOKS, REPORTS AND FORMS FROM PARTICIPANTS IN THE FEDERAL GROUNDFISH FISHERIES

Name of logbook/form	Catcher-vessel	Catcher-processor	Mothership	Shoreside processor	Buying station
Daily Fishing Logbook (DFL)*	YES	NO	NO	NO	NO
Daily Cumulative Production Logbook (DCPL)*	NO	YES	YES	YES	NO
Daily Cumulative Logbook (DCL)	NO	NO	NO	NO	YES
Check-in/Check-out Report	NO	YES	YES	YES	YES
U.S. Vessel Activity Report (VAR)	YES	YES	YES	NO	NO
Weekly Production Report (WPR)	NO	YES	YES	YES	NO
Daily Production Report (DPR) [1]	NO	YES	YES	YES	NO
Product Transfer Report (PTR)	NO	YES	YES	YES	NO

[1] When required by Regional Administrator.
* Two formats of the DFL and catcher/processor DCPL exist: one for non-IFQ groundfish and another for combined groundfish/IFQ.

TABLE 12 TO 50 CFR PART 679.—STELLER SEA LION PROTECTION AREAS IN THE BERING SEA SUBAREA

[Effective through December 31, 1999]

Management area/Island/Site	Boundaries to				Directed fishing for pollock prohibited within * * * (nm)		Trawling prohibited within * * * (nm)	
	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Nov. 1 through April 30	May 1 through Oct. 31	Jan. 1 through April 15	Year-round
Bering Sea:								
Walrus	57°11.00′	169°56.00′			20	20	.....	10
Uliaga	53°04.00′	169°47.00′	53°05.00′	169°46.00′	.....	20	.....	.....
Chuginadak	52°46.50′	169°42.00′	52°46.50′	169°44.50′	.....	20	.....	.....
Kagamil	53°02.50′	169°41.00′			.....	20	.....	.....
Samalga	52°46.00′	169°15.00′			.....	20	.....	.....
Adugak	52°55.00′	169°10.50′			20	20	.....	10
Umnak/Cape Aslik	53°25.00′	168°24.50′			20	20	.....	.....
Ogchul	53°00.00′	168°24.00′			20	20	.....	10
Bogoslof/Fire Island	53°56.00′	168°02.00′			20	20	.....	10
Emerald	53°17.50′	167°51.50′			.....	20	.....	.....
Unalaska/Cape Izigan	53°13.50′	167°39.00′			20	20	.....	.....
Unalaska/Bishop Pt	53°58.50′	166°57.50′			20	20	.....	.....
Akutan/Reef-lava	54°07.50′	166°06.50′	54°10.50′	166°04.50′	20	20	.....	.....
Old Man Rocks	53°52.00′	166°05.00′			20	20	.....	.....
Akutan/Cape Morgan	54°03.50′	166°00.00′	54°05.50′	166°05.00′	20	20	20	10
Rootok	54°02.50′	165°34.50′			.....	20	.....	.....
Akun/Billings Head	54°18.00′	165°32.50′	54°18.00′	165°31.50′	20	20	20	10

TABLE 12 TO 50 CFR PART 679.—STELLER SEA LION PROTECTION AREAS IN THE BERING SEA SUBAREA—Continued

[Effective through December 31, 1999]

Management area/Island/Site	Boundaries to				Directed fishing for pollock prohibited within * * * (nm)		Trawling prohibited within * * * (nm)	
	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Nov. 1 through April 30	May 1 through Oct. 31	Jan. 1 through April 15	Year-round
Tanginak	54°12.00′	165°20.00′			20	.....	.....	.....
Tigalda/Rocks NE	54°09.00′	164°57.00′	54°10.00′	164°59.00′	20	20	.....	.....
Unimak/Cape Sarichef	54°34.50′	164°56.50′			10	10	.....	.....
Aiktak	54°11.00′	164°51.00′			20	.....	.....	.....
Ugamak	54°14.00′	164°48.00′	54°13.00′	164°48.00′	20	20	20	10
Round	54°12.00′	164°46.50′			.....	20	.....	.....
Sea Lion Rock (Amak)	55°28.00′	163°12.00′			20	20	20	10
Amak+rocks	55°24.00′	163°07.00′	55°26.00′	163°10.00′	20	20	.....	.....

[1] Three nm NO TRANSIT ZONES are described at 50 CFR 227.12(a)(2) of this title.
[2] Closure zones around many of these sites also extend into statistical area 610 of the Gulf of Alaska Management Area.
[3] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

TABLE 13 TO 50 CFR PART 679.—STELLER SEA LION PROTECTION AREAS IN THE GULF OF ALASKA

[Sheet 1 of 2: Effective through December 31, 1999]

Management area/Island/Site	Boundaries to				Directed fishing for pollock prohibited within * * * (nm)		Trawling prohibited within * * * (nm)	
	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Nov. 1 through April 31	May 1 through Oct. 31	Jan. 1 through April 15	Year-round
Gulf of Alaska								
Bird	54°40.50′	163°18.00′			10	10	.....	.....
South Rocks	54°18.00′	162°41.50′			.....	10	.....	.....
Clubbing Rocks	54°42.00′	162°26.50′	54°43.00′	162°26.50′	10	10	.....	10
Pinnacle Rock	54°46.00′	161°46.00′			10	10	.....	10
Sushilnoi Rocks	54°50.00′	161°44.50′			.....	10	.....	.....
Olga Rocks	55°00.50′	161°29.50′	54°59.00′	161°31.00′	10	10	.....	.....
Jude	55°16.00′	161°06.00′			10	10	.....	.....
The Whaleback	55°16.50′	160°06.00′			10	10	.....	.....
Chernabura	54°47.50′	159°31.00′	54°45.50′	159°33.50′	10	10	.....	10
Castle Rock	55°17.00′	159°30.00′			.....	10	.....	.....
Atkins	55°03.50′	159°19.00′			10	10	.....	10
Spitz	55°47.00′	158°54.00′			.....	10	.....	.....
Kak	56°17.00′	157°51.00′			.....	10	.....	.....
Lighthouse Rocks	55°47.50′	157°24.00′			10	10	.....	.....
Sutwik	56°31.00′	157°20.00′	56°32.00′	157°21.00′	.....	10	.....	.....
Chowiet	56°00.50′	156°41.50′	56°00.50′	156°42.00′	10	10	.....	10
Nagai Rocks	55°50.00′	155°46.00′			10	10	.....	.....
Chirikof	55°46.50′	155°39.50′	55°46.50′	155°43.00′	10	10	.....	10
Puale Bay	57°41.00′	155°23.00′			10	10	.....	.....
Takli	58°03.00′	154°27.50′	58°02.00′	154°31.00′	.....	10	.....	.....
Cape Gull	58°13.50′	154°09.50′	58°12.50′	154°10.50′	.....	10	.....	.....

TABLE 13 TO 50 CFR PART 679.—STELLER SEA LION PROTECTION AREAS IN THE GULF OF ALASKA

[Sheet 2 of 2: Effective through December 31, 1999]

Management area/Island/Site	Boundaries to				Directed fishing for pollock prohibited within * * * (nm)		Trawling prohibited within * * * (nm)	
	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Nov. 1 through April 31	May 1 through Oct. 31	Jan. 1 through April 15	Year-round
Sitkinak/Cape Sitkinak	56°34.50′	153°51.50′			10	10	.....	.....
Kodiak/Cape Ugat	57°52.00′	153°51.00′			10	10	.....	.....
Shakun Rock	58°32.50′	153°41.50′			10	10	.....	.....
Twoheaded Island	56°54.50′	153°33.00′	56°53.50′	153°35.50′	10	10	.....	.....
Cape Douglas	58°51.50′	153°14.00′			.....	10	.....	.....
Latax Rocks	58°42.00′	152°28.50′	58°40.50′	152°30.00′	10	10	.....	.....

TABLE 13 TO 50 CFR PART 679.—STELLER SEA LION PROTECTION AREAS IN THE GULF OF ALASKA—Continued

[Sheet 2 of 2: Effective through December 31, 1999]

Management area/Island/Site	Boundaries to				Directed fishing for pollock prohibited within * * * (nm)		Trawling prohibited within * * * (nm)	
	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Nov. 1 through April 31	May 1 through Oct. 31	Jan. 1 through April 15	Year-round
Ushagat/SW	58°55.00′	152°22.00′			.....	10	.....	.....
Ugak	57°23.00′	152°15.50′	57°22.00′	152°19.00′	.....	10	.....	.....
Sea Otter Island	58°31.50′	152°13.00′			10	10	.....	.....
Long	57°47.00′	152°13.00′			10	.....	.....	.....
Kodiak/Cape Chiniak	57°37.50′	152°09.00′			10	10	.....	.....
Sugarloaf	58°53.00′	152°02.00′			10	10	.....	10
Sea Lion Rocks (Marmot)	58°21.00′	151°48.50′			10	10	.....	.....
Marmot	58°14.00′	151°47.50′	58°10.00′	151°51.00′	10	10	.....	10
Perl	59°06.00′	151°39.50′			10	10	.....	.....
Outer (Pye) Island	59°20.50′	150°23.00′	59°21.00′	150°24.50′	10	10	.....	10
Steep Point	59°29.00′	150°15.00′			.....	10	.....	.....
Chiswell Islands	59°36.00′	149°34.00′			10	10	.....	.....
Wooded Island (Fish)	59°53.00′	147°20.50′			10	10	.....	.....
Glacier Island	60°51.00′	147°09.00′			10	10	.....	.....
Seal Rocks	60°10.00′	146°50.00′			10	10	.....	.....
Cape Hinchinbrook	60°14.00′	146°38.50′			.....	10	.....	.....
Hook Point	60°20.00′	146°15.50′			.....	10	.....	.....
Cape St. Elias	59°48.00′	144°36.00′			10	10	.....	.....

[1] Three nm NO TRANSIT ZONES are described at 50 CFR 227.12(a)(2) of this title.

[2] Additional closures along the Aleutian Island chain that extend into statistical area 610 of the Gulf of Alaska are displayed in Table 13 to this part.

[3] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

TABLE 14 TO PART 679.—IFQ PRIMARY PORTS

Port	North Latitude	West Longitude
Akutan	54°08′05″	165°46′20″
Bellingham	48°45′04″	122°30′02″
Cordova	60°33′00″	145°45′00″
Craig	55°28′30″	133°09′00″
Dutch Harbor/Unalaska	53°53′27″	166°32′05″
Excursion Inlet	58°25′00″	135°26′30″
Homer	59°38′40″	151°33′00″
Ketchikan	55°20′30″	131°38′45″
King Cove	55°03′20″	162°19′00″
Kodiak	57°47′20″	152°24′10″
Pelican	57°57′30″	136°13′30″
Petersburg	56°48′10″	132°58′00″
St. Paul	57°07′20″	170°16′30″
Sand Point	55°20′15″	160°30′00″
Seward	60°06′30″	149°26′30″
Sitka	57°03′	135°20′
Yakutat	59°33′	139°44′

TABLE 15 TO PART 679.—IFQ/CDQ GEAR CODES AND DESCRIPTIONS

IFQ/CDQ gear code	IFQ/CDQ gear description
05	Hand troll.
15	Power gurdy troll.
25	Dinglebar troll.
26	Jigs.
61	Hook-and-line.
91	Pot.

[FR Doc. 99–28294 Filed 11–12–99; 8:45 am]

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federal register

Monday
November 15, 1999

Part III

Department of Transportation

Coast Guard

46 CFR Parts 2, 30, 31, 52, 71, et al.

Vessel Inspection Regulations; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 2, 30, 31, 52, 61, 71, 90, 91, 98, 107, 110, 114, 115, 125, 126, 132, 133, 134, 167, 169, 175, 176, 188, 189, 195, and 199

[USCG–1999–4976]

RIN 2115–AF73

Frequency of Inspection, Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Passenger, Nautical School, and Sailing School Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes amending its vessel inspection regulations. These amendments would introduce a 5-year Certificate of Inspection cycle in accordance with the Coast Guard Authorization Act of 1996 to harmonize our inspections with most internationally required certificates. The proposed rule would also establish hull examination alternatives and a drydock extension procedure for qualifying passenger vessels. Qualifying vessels must operate exclusively in fresh water, on restricted routes, and in low risk environments. In addition, the proposed rule would provide the option of alternating drydock examinations with underwater surveys for passenger, nautical school, and sailing school vessels. This rulemaking is necessary for the following reasons: to align inspection schedules with international protocols; to establish an examination process giving industry additional latitude in scheduling inspections; and to create a parity between passenger vessels and all other Coast Guard-inspected vessels. The Coast Guard expects this proposed rule to result in a reduction in the time and paperwork associated with Coast Guard vessel inspections and examinations.

DATES: Comments and related material must reach the Docket Management Facility on or before December 30, 1999. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before January 14, 2000.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG 1999–4976, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call James W. Cratty, Office of Standards Evaluation and Development (G–MSR–2), Coast Guard, telephone 202–267–6742. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. The comment period for this rulemaking is 45 days. The reason for this is to enable us to publish the Final Rule in time to meet the International Convention for the Safety of Life at Sea, 1974 and the International Convention on Load Line Compliance date of February 3, 2000. If you choose to submit your comments, please include your name and address, identify the docket number for this rulemaking (USCG–1999–4976), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The background and purpose for the three distinct portions of this proposed rule, Frequency of Inspection, Alternate Hull Examinations, and Underwater Surveys, is as follows:

Frequency of Inspection

On October 31, 1988, the International Maritime Organization (IMO) convened the International Conference on the Harmonized Systems of Survey and Certification to adopt the Protocol of 1988 relating to the International Convention for Safety of Life at Sea (SOLAS), 1974, and the Protocol of 1988 relating to the International Convention on Load Lines, 1966. By adopting these 1988 Protocols, IMO standardized the term of validity for certificates and intervals for vessel inspections required by the Conventions. These 1988 Protocols will enter into force as international law on February 3, 2000. As party to the SOLAS Convention, and the International Convention on Load Lines, the U.S. ratified the 1988 Protocol on July 1, 1991. Section 605 of the Coast Guard Authorization Act of 1996, Public Law 104–324, codified at Title 46 of the United States Code (U.S.C.) section 3307 was amended to allow vessel inspections once a year or once every 5 years, depending on vessel type. Previously, vessels were inspected once a year, or once every 2 or 3 years, depending on vessel type.

This rulemaking proposes aligning the term of validity for a Certificate of Inspection (COI) and the type of inspections required during the term of the COI with the standards prescribed in

the 1974 SOLAS Convention. Adopting a 5-year COI, with interval annual inspections, and a periodic inspection will ensure that U.S. vessels meet international standards and comply with international law. These changes will also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Alternate Hull Examination (AHE) Program

In February 1997, the Riverboat Gaming Maritime Association (RGMA) of East Peoria, IL (which represents a number of gaming vessel owners and operators) asked the Coast Guard (in a letter) to allow its member vessels to undergo hull examinations while afloat instead of at drydock as required by our regulations. Many of RGMA's member vessels operate locally, are landlocked, and do not have drydock facilities of adequate size within a reasonable distance. They also operate in the low risk environments of fresh water rivers, or protected lakes, near shore, and in shallow water. While reviewing RGMA's request, the Coast Guard considered the low risk environments in which these vessels operate and the advances in underwater survey technology. We concluded that an underwater hull examination, coupled with a thorough internal examination, can adequately evaluate the condition of a vessel's hull.

In March 1997, the owners of a vessel that operates in a low-risk environment, as described above, requested a 1-year extension for completing its required drydock examination. This vessel operates approximately eight times a day on the Des Plaines River in Joliet, IL in a restricted area (between two locks on the river). This vessel was due for its first 5-year drydock examination on May 31, 1997. The vessel's owners requested a 1-year drydock extension as an interim measure, pending the Coast Guard review of the proposed hull examination alternative.

In May 1997, along with a routine drydock extension survey, we observed a demonstration of the underwater survey methods under the AHE Program proposed in this rule. We determined that the survey results alone were sufficient to grant this vessel a 1-year drydock extension to May 1998, in accordance with 46 CFR 115.670. Under 46 CFR 115.670, the Officer in Charge, Marine Inspection (OCMI) or the Commandant may allow extensions of the examination intervals between drydock examinations and internal structural examinations.

Based on the results of the underwater survey demonstration, the Coast Guard created a pilot program (which will remain in place until this rulemaking is finalized) that allows owners and operators of qualified vessels to undergo an alternative hull examination process. This examination process includes an underwater survey and internal structural examination along with annual condition assessments and scheduled preventative maintenance. Under this pilot program, we will consider a drydock extension of up to 30 months for vessels that operate in low-risk environments.

To establish criteria for this pilot program, the Coast Guard published G–MOC Policy Letter 3–98 on March 5, 1998, entitled ''Drydock Extensions for Certain Passenger Vessels.'' This policy letter provides specific eligibility criteria, outlines application requirements, and establishes the survey criteria for these special drydock extensions. On March 5, 1998, the Coast Guard published a notice in the **Federal Register** (63 FR 10777) announcing that the G–MOC Policy Letter would be incorporated into Coast Guard regulations.

In April 1998, the first vessel in the pilot program underwent a second drydock extension survey using the guidelines in the G–MOC Policy Letter. Based on the results of the survey, the Coast Guard granted the vessel owner a 30-month drydock extension so the vessel will not have to be drydocked until November 20, 2000. After the Coast Guard set this precedent, several other gaming vessel owners and operators also completed successful surveys and were granted 30-month drydock extensions.

This rulemaking would formalize this pilot program and title it the Alternate Hull Examination (AHE) Program. The AHE Program would allow owners and operators of qualifying vessels to receive drydock extensions of up to 30 or 60 months, depending on the chosen method of hull examination. Once a vessel enters the program, it may receive an indefinite number of consecutive drydock extensions; however, the OCMI may require it to be dry-docked if the AHE Program is deemed inadequate for evaluating its hull or if out-of-water repairs are required. The affected industry would save time and money, and still meet Coast Guard safety standards by using the advanced survey techniques under the proposed AHE Program.

Underwater Survey Program

Inspected U.S. passenger vessels, nautical school ships (public and civilian), and sailing school vessels lack the regulatory option of alternating drydock examinations with underwater surveys. Current U.S. regulations allow this option to tank vessels, cargo and miscellaneous vessels, oceanographic research vessels, and mobile offshore drilling units (MODUs). Recognizing significant advances in underwater survey technology over the past decade, the Coast Guard has determined that it is safe and appropriate to include passenger vessels, nautical school ships, and sailing school vessels in the list of qualifying vessels.

Current U.S. regulations require U.S. passenger vessels operating on international voyages to drydock annually; however, their foreign counterparts generally drydock every 2 years. International regulations, as prescribed by the International Convention for Safety of Life at Sea (SOLAS) Chapter I, Regulation 7, require passenger ships to undergo annual surveys that include inspection of the outside of the ship's bottom. To satisfy this requirement, most classification societies, acting on behalf of foreign-flag administrations, accept drydock examinations every 2 years with an underwater hull examination at the mid-period. U.S. passenger vessels operating on international voyages would gain parity with their foreign counterparts by having such an option.

Navigation and Vessel Inspection Circular (NVIC) 1–89, entitled ''Underwater Survey Guidance,'' dated March 15, 1989, provides guidance for conducting underwater surveys to vessel owners and operators, underwater survey diving contractors, and other interested persons. The NVIC addresses the application process, the advanced planning necessary, and the procedure to be followed during an underwater survey.

This proposed rule would incorporate the guidance from NVIC 1–89 into Coast Guard regulations, and allow owners and operators of U.S. passenger vessels, nautical school ships, and sailing school vessels with steel or aluminum hulls the option of alternating underwater hull surveys with drydock examinations. This voluntary option would result in a decrease in the overall costs for vessel owners and operators that choose this option. See the REGULATORY EVALUATION section of this proposed rule for a discussion of costs.

Discussion of Proposed Rule

The discussion of the three distinct portions of this proposed rule, Frequency of Inspection, Alternate Hull Examination, and Underwater Survey, is as follows:

Frequency of Inspection

We propose changing the term of validity for a Certificate of Inspection (COI) from 2 or 3 years to 5 years. We also propose changing the type of interval inspections required for yearly endorsement of a valid COI. Vessels and mobile offshore drilling units (MODUs) that currently receive 2-year COIs would undergo three annual inspections and a periodic inspection during the 5-year interval between COI renewals. Small passenger vessels that currently receive 3-year COIs would undergo four annual inspections during the 5-year interval between COI renewals. We are proposing these changes to align with the international standards provided in SOLAS, to provide owners and operators increased flexibility in scheduling inspections, and to eliminate ''inspection creep.''

Currently, when an inspection for certification is conducted before the current COI expiration date, the date of the inspection becomes the new COI issue date. This causes ''inspection creep'' whereby a vessel's due date for inspection is earlier with each new COI. This has proven to be a hardship on those vessel owners and operators with seasonal operations. We propose to allow you to have your vessel's inspection for certification up to 3 months before the expiration date of your COI. Additionally, your vessel may undergo its annual and periodic inspections up to 3 months before or 3 months after the anniversary date of the issuance of the vessel's COI. Providing this new extended scheduling window eliminates ''inspection creep'' and eases inspection scheduling. The current expiration date of your vessel's or MODU's COI would remain the same for as long as the vessel or MODU operates.

(a) General

Section 2.01–5.

In § 2.01–5, we propose removing paragraphs (a)(3) and (4) that reference two forms that we no longer use: CG–3753—Certificate of Inspection (for small passenger vessels) and CG–4678—Barge Certificate of Inspection.

Section 2.01–8.

In § 2.01–8, we propose removing the reference to § 176.35–1 because it no longer exists and replace it with references to § 115.900 and § 176.900, which relate to the applicability of SOLAS certificates.

(b) Notification

Section 2.01–3.

Due to the removal of the phrase ''not more than 60 days'' from 46 U.S.C. 3309, we propose removing the similar phrase ''but less than 60 days'' from § 2.01–3. Currently, Vessel owners and operators cannot notify the Coast Guard more than 60 days before their COI expires. Vessel owners and operators would continue to notify the Coast Guard at least 30 days before their inspection for certification, but they would no longer be restricted on how early they may notify us.

(c) SOLAS certificates

Section 2.01–25.

In § 2.01–25(a), (b), and (e), we propose removing references to both the Cargo Ship Safety Radiotelephony Certificate and the Cargo Ship Radiotelegraphy Certificate. Amendments to SOLAS combined these certificates into one certificate: The Cargo Ship Safety Radio Certificate. The revised section would only reference the new certificate.

In § 2.01–25(b)(1), we propose to add two classes of vessels: Small passenger vessels carrying more than 150 passengers or with overnight accommodations for more than 49 passengers and offshore supply vessels (OSVs). These vessels were inadvertently excluded from this section that provides guidance on SOLAS Certificates.

Sections 2.01–25, 31.40–35, 91.60–35, and 189.60–35.

We propose amending §§ 2.01–25, 31.40–35, 91.60–35, and 189.60–35 to align our rules with SOLAS requirements. SOLAS requires that certificates be made readily available, but not necessarily posted in a prominent place.

Sections 31.40–1 and 91.60–1.

In § 31.40–1, we propose adding a cross-reference to § 30.01–6, which provides information on the applicability of subchapter D for vessels on international voyages. In § 91.60–1, we propose adding a cross-reference to § 91.05–10, which provides information on the applicability of subchapter I for vessels on international voyages. These cross-references would help vessel owners and operators determine in which geographical locations they are required to have SOLAS certificates.

Sections 31.40–15, 31.40–20, 91.60–15, 91.60–20, 189.60–15, and 189.60–20.

We propose removing §§ 31.40–20, 91.60–20, and 189.60–20 that reference obsolete certificates and application information. We propose revising §§ 31.40–15, 91.60–15, and 189.60–15 to remove references to the same obsolete certificates and to add the SOLAS Cargo Ship Safety Radio Certificate that will take the place of the obsolete certificates. The Federal Communications Commission (FCC) no longer issues the Cargo Ship Safety Radiotelegraphy Certificate, referenced in §§ 31.40–15, 91.60–15, and 189.60–15 or the Cargo Ship Safety Radiotelephony Certificate, referenced in §§ 31.40–20, 91.60–20, and 189.60–20. The proposed rule would require tankships, cargo ships, and oceanographic research vessels with radio installations to obtain the Cargo Ship Safety Radio Certificate aligning them with the international standards provided in SOLAS.

The Protocol of 1988 relating to SOLAS provides the option for the Administration (Flag State) to combine the Cargo Ship Safety Construction Certificate, the Cargo Ship Safety Radio Certificate, and the Cargo Ship Safety Equipment Certificate into the Cargo Ship Safety Certificate. We have chosen not to adopt that option at this time. The FCC has primary responsibility over the Cargo Ship Safety Radio Certificate and maintains existing agreements with third parties, which act on its behalf for issuing this certificate. The Cargo Ship Safety Certificate option would present difficulties in coordination between the two agencies. Also, the Cargo Ship Safety Radio Certificate is not included in 46 CFR part 8, Vessel Inspection Alternatives, where vessel owners and operators have the option of obtaining an international certificate from sources other than the Coast Guard.

Establishing procedures to combine the FCC responsibilities for the Cargo Ship Safety Certificate with our responsibilities for the safety construction and safety equipment certificates is beyond the scope of this rulemaking.

Sections 31.40–40, 91.60–40, and 189.60–40.

We propose revising §§ 31.40–40, 91.60–40, and 189.60–40 to remove the references to the obsolete Cargo Ship Safety Radiotelegraphy and Cargo Ship Safety Radiotelephony Certificates. We propose adding a reference to the Cargo Ship Safety Radio Certificate in place of the obsolete certificates. Also, we propose changing the period of validity of the Convention certificates from 24 months to 60 months. These proposed changes would align our rules with the international standards provided in SOLAS.

Sections 107.405.

We propose amending § 107.405 to change the term of validity of the SOLAS Safety Equipment Certificate from 24 months to 60 months. We are proposing this change to align with the international standards provided in SOLAS.

(d) Definition of Anniversary Date

Sections 30.10–2a, 90.10–1a, 107.111, 114.400, 125.160, 169.107, 175.400, and 188.10–1.

In §§ 30.10–2a, 90.10–1a, 107.111, 114.400, 125.160, 169.107, 175.400, and 188.10–1, we propose adding the definition of ''anniversary date'' to the definitions applicable to title 46, subchapters D, I, I-A, K, L, R, T, and U. This definition would clarify the requirement for the annual and periodic inspections based on the expiration date of the COI. In part 188, we propose to redesignate the current § 188.10–1 as § 188.10–2 to maintain the alphabetical order of the definitions.

(e) Frequency of Inspections

Section 31.01–1.

In § 31.01–1, we propose removing the terms ''biennially'' and ''annually'' and changing the frequency of an inspection for certification to every 5 years. We are proposing these changes to align with the international standards provided in SOLAS.

Sections 31.05–10, 91.01–10, 107.211, 126.250, 169.207, and 189.01–10.

In §§ 31.05–10, 91.01–10, 107.211, 126.250, 169.207, and 189.01–10, we propose changing the term of validity for a COI to 5 years. We are proposing this change to align with the international standards provided in SOLAS, to provide owners and operators with increased flexibility in scheduling inspections, and to eliminate inspection creep. In §§ 31.05–10, 91.01–10, 126.250, 169.207, and 189.01–10 we also propose to amend the section headings to read ''Period of Validity for a Certificate of Inspection''.

Section 31.10–15.

In § 31.10–15(a), we propose amending paragraph (a) to change the frequency of inspection for a COI from 2 years to 5 years. We are proposing this change to align with the international standards provided in SOLAS. Additionally, we are proposing editorial changes to paragraph (a) to clarify the language.

Also, the proposed rule would add new paragraph (c) to specify that the new COI would be issued upon satisfactory completion of the inspection for certification.

Section 107.201.

In § 107.201, we propose removing the term ''biennial'' in paragraph (b) and replacing the term ''reinspections'' with the terms ''annual and periodic inspections'' in paragraph (c). This section references statutory authority for inspections and reinspections. The proposed change would update the terminology and change the frequency of an inspection for certification to every 5 years. We are proposing these changes to align with the international standards provided in SOLAS.

Section 115.107 and 176.107.

The proposed rule would change the COI term of validity for small passenger vessels from 3 to 5 years in §§ 115.107 and 176.107. Rather than undergoing both annual inspections and a periodic inspection during the 5-year interval between inspections for certification, these vessels would undergo four annual inspections. These inspections would provide an adequate means of determining that the vessels are seaworthy for their intended routes. Under 46 U.S.C. 3307, we are proposing these changes to provide owners and operators with increased flexibility in scheduling inspections, and to eliminate inspection creep. However, the term of validity for COIs for small passenger vessels carrying more than 12 passengers on an international voyage would remain 1 year as required by 46 U.S.C. 3307(1).

(f) Conditions of Validity

Sections 31.10–17a, 91.27–5, 107.283, 126.520, 169.227, and 189.27–10.

We propose adding §§ 31.10–17a, 91.27–5, 107.283, 126.520, 169.227, and 189.27–10 to require annual and periodic inspections to maintain the validity of COIs for—

- MODUs;
- Tank vessels;
- Cargo and miscellaneous vessels;
- Offshore supply vessels;
- Sailing school vessels; and
- Oceanographic research vessels.

We are proposing these changes to align with the international standards provided in SOLAS.

To maintain a valid COI for the full 5-year period, this proposed rule would require your vessel or MODU to—

- Undergo the relevant annual and periodic inspections within the time frame allowed; and
- Obtain endorsements from the appropriate authority for relevant annual and periodic inspections.

Sections 115.502 and 176.502.

We propose adding §§ 115.502 and 176.502 to require four annual inspections for Small Passenger Vessels (subchapters K and T) to maintain the validity of the COI. We are proposing these changes to keep all COI inspection intervals consistent.

To maintain a valid COI for the full 5-year period, this proposal would require your vessel to—

- Undergo the relevant annual inspections within the time frame allowed; and
- Obtain endorsements from the appropriate authority for relevant annual inspections.

(g) Application for COI

Sections 31.01–15, 91.25–5, 126.420, 169.205, and 189.25–5.

In §§ 31.01–15, 91.25–5, 126.420, 169.205, and 189.25–5, we propose revising the application process for a renewal of a COI. This revision would require you to submit an application for a COI at least 30 days before the expiration date of a vessel's current COI. In addition, you must schedule the inspection for certification within 3 months before the expiration date of the current COI. We are proposing these changes to align with the international standards provided in SOLAS. Also, providing this new extended scheduling window with the fixed anniversary date eases inspection scheduling and eliminates inspection creep.

Section 107.215.

We propose revising the section heading and removing the term ''biennial'' from paragraphs (a) and (c) because the proposed frequency of an inspection for certification for a MODU is every 5 years. In addition, the proposed revision to paragraph (b) would require you to submit an application for a COI at least 30 days before the expiration date of a vessel's current COI. Proposed new paragraph (d) would establish the 5-year term of validity for a renewed COI. We are proposing these changes to align with the international standards provided in SOLAS.

(h) Annual and Periodic Inspections

Sections 31.10–17, 91.27–1, 126.510, 189.27–1, and 189.27–5.

We propose revising §§ 31.10–17, 91.27–1, 126.510, 189.27–1, and 189.27–5 to establish annual inspections and periodic inspections for tank vessels, cargo and miscellaneous vessels, offshore supply vessels, and oceanographic research vessels. We are proposing these changes to align with the international standards provided in SOLAS and to provide owners and operators with increased flexibility in scheduling inspections.

Currently, the regulations require ''reinspections'' (interval inspections) for these vessels during the 2 year intervals for COIs. Changing the term of validity for COIs to 5 years allows for more time between detailed inspections. To accommodate the new 5-year COI interval while maintaining safety, we propose requiring three annual inspections and one periodic inspection during the 5-year interval between inspections for certifications. We would

maintain the current time intervals between inspections and ensure that testing or inspection requirements are conducted during the inspections for certification and periodic inspections. A vessel would undergo an annual inspection each year that it does not undergo a periodic inspection or an inspection for certification. A vessel would undergo a periodic inspection in either the second or third anniversary year of the date of issuance for the COI. The owner or operator can choose which year to have the periodic inspection. Although no written request or application for inspection is required, you must schedule annual inspections and periodic inspections with the cognizant OCMI within 3 months before but no later than 3 months after the COI anniversary date.

The scope of the annual inspection under proposed §§ 31.10–17, 91.27–1, 126.510, 189.27–1, and 189.27–5 would be equivalent to the scope of the ''reinspection'' (interval inspections) described in the current regulations. The scope of a reinspection under §§ 31.10–17(c), 91.27–5, 126.520, and 189.275 is currently described as ''in less detail'' than an inspection for certification. Because the scope of the annual inspections is equivalent to the scope of the current reinspections, we would continue to use the words ''in less detail'' to describe annual inspections in proposed §§ 31.10–17(a)(2), 91.27–5(a)(2), 126.520(a)(2), and 189.275(c) and to differentiate between the annual inspection and the inspection for certification.

As indicated in proposed §§ 31.10–17(b)(2), 91.27–5(b)(2), 126.520(b)(2), and 189.27–5(c), the marine inspector would ensure that your vessel is in compliance with all applicable regulations and would endorse the current COI, unless deficiencies or major changes to the vessel are found. We propose to allow the marine inspector to conduct a more detailed inspection if deficiencies are found. As in the current regulations, the marine inspector has the authority to require any tests or correction deemed necessary. The OCMI would determine the time period in which deficiencies must be corrected on a case-by-case basis.

Finally, the scope of the periodic inspection in proposed §§ 31.10–17(c), 91.27–5(b)(2), 126.520(b)(2), and 189.27–5(c) would be the same as an inspection for certification in the current regulations at §§ 31.10–15, 91.25–10, 126.430, and 189.25–10.

Sections 91.27–13 and 126.530.

We propose revising §§ 91.27–13 and 126.530 to allow owners and operators of offshore supply vessels less than 400 gross tons in foreign ports to receive a 5-year COI. Currently, a vessel owner, master, or operator may request authorization to conduct his or her own alternative midperiod examination in place of a reinspection. This proposed rule would allow a vessel owner, master, or operator to request authorization from the Coast Guard to conduct an alternative annual inspection in place of any or all annual inspections during the 5-year interval between inspections for certification. For these vessels, the cognizant OCMI would continue conducting the inspections for certification every fifth year and the periodic inspection in either the second or third year after the COI anniversary date.

The proposed rule would require you to apply, in writing, to the cognizant OCMI for authorization to conduct your own alternative annual inspection. Your application must be received by the OCMI before the end of the twelfth month of each COI anniversary year. If you are approved, the OCMI would provide written authorization, to proceed with the alternative annual inspection and provide you with any special instructions. The proposed rule would require you to conduct your alternative annual inspection within 3 months before but no later than 3 months after the COI anniversary date. The scope of the alternative annual inspection would be equivalent to the annual inspection conducted by the Coast Guard for other offshore supply vessels. The scope of the annual inspection would be equivalent to the midperiod alternative examination required in the current inspection regulations for these vessels.

In reviewing your application for authorization, items or issues the OCMI may consider include, but are not limited to, any outstanding inspection requirements for the vessel, vessel history, documentation of employment outside the United States, and prompt correction of past deficiencies. To qualify for an alternative annual examination, these vessels must be less than 400 gross tons and must be employed outside the United States during the 3 months before and after their COI anniversary date. Requirements regarding submission of inspection results and OCMI evaluation are prescribed in 46 CFR 91.27–13.

In addition, we propose requiring the master of an offshore supply vessel that participates in the alternative annual inspection program to endorse the vessel's COI.

Sections 107.269 and 107.270.

We propose revising §§ 107.269 and 107.270 to establish annual inspections and periodic inspections for MODUs. We are proposing these changes to align with the international standards provided in SOLAS and to provide owners and operators with increased flexibility in scheduling inspections.

Currently, the regulations require ''reinspections'' (interval inspections) for these units during the 2 year intervals for COIs, which are the same in scope as the inspection for certification, except in § 107.231(x) and (y). We are proposing to change the term of validity for COIs to 5 years to allow for more time between detailed inspections. To accommodate the new 5-year COI interval and ensure all applicable units comply with our regulations, we propose requiring three annual inspections and one periodic inspection during the 5-year interval between inspections for certification. We would maintain the current time intervals between inspections and ensure that testing or inspection requirements are conducted during the inspections for certification and periodic inspections. A unit would undergo an annual inspection each year that it does not undergo a periodic inspection or an inspection for certification. A unit would undergo a periodic inspection in either the second or third anniversary year of the date of issuance for the COI. The owner or operator can choose which year to have the periodic inspection. Although no written request or application for inspection is required, you must schedule annual inspections and periodic inspections with the cognizant OCMI within 3 months before but no later than 3 months after the COI anniversary date.

Currently, the scope of a reinspection under § 107.269 is the same as the scope of the inspection for certification under § 107.231, except paragraphs (x) and (y). Under proposed § 107.269, the scope of the annual inspection would be ''in less detail'' than the scope of the ''reinspection'' (interval inspections) described in the current regulations.

As indicated in proposed §§ 107.269 and 107.270, the marine inspector would ensure that your unit is in compliance with all applicable regulations and would endorse the current COI, unless deficiencies or major changes to the unit are found. We propose to allow the marine inspector to conduct a more detailed inspection if deficiencies are found. As in the current regulations, the marine inspector has the authority to require any tests or correction deemed necessary. The OCMI would determine the time period in

which deficiencies must be corrected on a case-by-case basis.

Finally, the scope of the periodic inspection in proposed § 107.270 would be the same as an inspection for certification in the current regulations at § 107.231.

Under § 107.269, MODU owners and operators are not required to conduct installation tests during reinspection. The requirements for installation tests are provided in § 107.231(x) and (y). The current paragraph references to § 107.231(y), (z), (aa), and (bb) in § 107.269 are incorrect. Proposed §§ 107.269 and 107.270 would correct and amend these references to allow the installation test exceptions for annual and periodic inspections.

Section 107.279.

We propose revising this section to remove the terms ''biennial'' and ''reinspections'' in paragraphs (b), (c), and (d). Also, we would correct the references to the exceptions in § 107.231(x) and (y). We are proposing these changes to align with the international standards provided in SOLAS.

Sections 15.500 and 176.500.

Sections 115.500 and 176.500 currently describe when reinspection is required for small passenger vessels. We propose revising these sections to require small passenger vessels with a 5-year COI to undergo four annual inspections, and to require small passenger vessels carrying more than 12 passengers on international voyages, to undergo an inspection for certification each year. We are proposing these changes to align with 46 U.S.C. 3307 and the international standards provided in SOLAS and to provide owners and operators with increased flexibility in scheduling inspections.

Currently, the regulations require ''reinspections'' (interval inspections) during the 3-year intervals for COIs. Changing the term of validity for COIs to 5 years allows for more time between detailed inspections. To accommodate the new 5-year COI interval and ensure all applicable vessels comply with our regulations, we propose requiring annual inspections each year during the 5-year interval between inspections for certifications. We would maintain the current frequency of inspection intervals and ensure that testing or inspection requirements are conducted during the inspections for certification. Although no written application or request for inspection is required, you must schedule annual inspections with the cognizant OCMI within 3 months before but no later than 3 months after the COI anniversary date.

The scope of the annual inspection would be equivalent to the scope of the ''reinspection'' (interval inspections) described in the current regulations in §§ 115.502 and 176.502. The marine inspector would ensure that your vessel is in compliance with all applicable regulations and would endorse the current COI, unless deficiencies or major changes to the vessel are found. We also propose to allow the marine inspector to require any tests or corrections deemed necessary or conduct an examination more detailed in scope to ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. The OCMI will determine a time period in which deficiencies must be corrected on case-by-case basis.

Sections 169.225 and 169.226.

We propose revising §§ 169.225 and 169.226 to establish annual inspections and periodic inspections for sailing school vessels. We are proposing these changes to align with the international standards provided in SOLAS and to provide owners and operators with increased flexibility in scheduling inspections.

Currently, the regulations require ''reinspections'' (interval inspections) for these vessels during the 2-year intervals for COIs, which are the same in scope as the inspection for certification. We are proposing to change the term of validity for COIs to 5 years to allow more time between detailed inspections. To accommodate the new 5-year COI interval and ensure all applicable vessels comply with our regulations, we propose requiring three annual inspections and one periodic inspection during the 5-year interval between inspections for certifications. We would maintain the current frequency of inspection intervals and ensure that testing or inspection requirements are conducted during the inspections for certification and periodic inspections. A vessel would undergo an annual inspection each year that it does not undergo a periodic inspection or an inspection for certification. A vessel would undergo a periodic inspection in either the second or third anniversary year of the date of issuance for the COI. The owner or operator can choose which year to have the periodic inspection. Although no written request or application for inspection is required, you must schedule annual inspections and periodic inspections with the cognizant OCMI within 3 months before but no later than 3 months after the COI anniversary date.

Currently, the scope of a reinspection under § 169.227 is the same as the scope of the inspection for certification under § 169.222. Under proposed § 169.225, the scope of the annual inspection would be ''in less detail'' than the scope of the ''reinspection'' (interval inspections) described in the current regulations.

As indicated in proposed §§ 169.225 and 169.226, the marine inspector would ensure that your vessel is in compliance with all applicable regulations and would endorse the current COI, unless deficiencies or major changes to the vessel are found. We propose to allow the marine inspector to conduct a more detailed inspection if deficiencies are found. As in the current regulations, the marine inspector has the authority to require any tests or correction deemed necessary. The OCMI would determine the time period in which deficiencies must be corrected on a case-by-case basis.

Finally, the scope of the periodic inspection in proposed § 169.226 would be the same as an inspection for certification in the current regulations at § 169.222.

(i) Inspection Intervals for Specific Equipment and Systems

Sections 31.10–18 and 169.247.

Currently, under § 31.10–18(d), the deck foam systems are tested biennially and under §§ 31.10–18(e) and (h), fire extinguishing equipment and carbon dioxide cylinders are inspected at the inspection for certification. Also, currently under § 169.247 (a), fire-extinguishing equipment is inspected at the inspection for certification only. We propose amending §§ 31.10–18 and 169.247 to require inspections of this fire-fighting equipment to be conducted during each inspection for certification and periodic inspection. We are proposing these changes to align with the international standards provided in SOLAS.

Section 52.01–50.

In § 52.01–50, paragraph (k)(1), we propose adding the terms ''periodic inspection.'' This change would maintain the frequency of inspections for fusible plugs and harmonize our inspection requirements with the proposed 5-year COI. The current rules require fusible plugs to be cleaned and examined at each inspection for certification. These proposed changes would align our rules with the international standards provided in SOLAS.

Section 61.05–10.

We propose amending Table 61.05–10 to remove references to the COI interval and replace them with the number ''2.5.'' This change would maintain the

inspection intervals for boilers at 2.5 years and harmonize the inspections with the proposed 5-year COI. Certain boiler tests are currently conducted at the inspection for certification. These proposed changes would align our rules with the international standards provided in SOLAS.

Section 61.10–5.

In § 61.10–5, we propose amending paragraphs (c), (h), and (i), to establish an inspection interval that must not exceed 3 years within the proposed 5-year COI. Paragraph (c) regulates tubular heat exchangers, hydraulic accumulators, and pressure vessels used in refrigeration service; paragraph (h) regulates pneumatic tests; and paragraph (i) regulates safety valves on pressure vessels.

These proposed changes would also align our rules with the international standards provided in SOLAS.

Section 61.15–5.

In § 61.15–5, we propose amending paragraph (c) to establish an inspection interval for safety and relief valves which must not exceed 3 years within the proposed 5-year COI. Safety and relief valves are currently checked by the marine inspector at each inspection for certification. This proposed change would align our rules with the international standards provided in SOLAS.

Section 61.15–10.

In § 61.15–10(a), we propose adding the term ''periodic inspection.'' This change would maintain the frequency of inspections for liquefied petroleum gas piping for heating and cooking and harmonize our inspection requirements with the proposed 5-year COI. The current rules require examinations or tests of this equipment at each inspection for certification. These proposed changes would align our rules with the international standards provided in SOLAS.

Section 61.15–12.

In § 61.15–12(a), we propose adding the term ''periodic inspection.'' This change would maintain the frequency of inspections for nonmetallic expansion joints and harmonize our inspection requirements with the proposed 5-year COI. The current rules require examinations or tests of this equipment at each inspection for certification. These proposed changes would align our rules with the international standards provided in SOLAS.

Section 61.20–1.

In § 61.20–1, we propose amending paragraph (a) to establish an inspection interval for steering gear that must not exceed 3 years within the proposed 5-year COI. The marine inspector currently checks the steering gear at each inspection for certification. This proposed change would also align our rules with the international standards provided in SOLAS.

Section 61.20–3.

In § 61.20–3, we propose amending paragraphs (a) and (b) by adding the term ''periodic inspection.'' These changes would maintain the frequency of inspections for main and auxiliary machinery and associated equipment, including fluid control systems. These changes would harmonize inspection requirements with the proposed 5-year COI. The current rules require examinations or tests of this equipment at each inspection for certification. These proposed changes would align our rules with the international standards provided in SOLAS.

Section 61.30–15.

In § 61.30–15, we propose adding the term ''periodic inspection.'' This change would maintain the frequency of visual inspections of thermal fluid heaters. This change would harmonize inspection requirements with the proposed 5-year COI. The current rules require examinations or tests of this equipment at each inspection for certification. This proposed change would align our rules with the international standards provided in SOLAS.

Section 61.30–20.

In § 61.30–20, we propose adding the term ''periodic inspection.'' This change would maintain the frequency of automatic control and safety checks for thermal fluid heaters. This change would harmonize inspection requirements with the proposed 5-year COI. The current rules require examinations or tests of this equipment at each inspection for certification. This proposed change would align our rules with the international standards provided in SOLAS.

Sections 91.25–20, 132.350, and 189.25–20.

In §§ 91.25–20, 132.350, and 189.25–20, we propose adding the term ''periodic inspection'' to require fire-extinguishing equipment to undergo inspections at the inspection for certification and periodic inspection. In 91.25–20, we have also made minor editorial changes for clarity. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Sections 91.25–25 and 189.25–25.

In §§ 91.25–25 and 189.25–25, we propose adding the terms ''and periodic inspection'' to require hull equipment to be inspected at the inspection for certification and periodic inspection. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Sections 91.25–38 and 189.25–38.

In §§ 91.25–38 and 189.25–38, we propose adding the terms ''and periodic inspection'' to require pollution prevention equipment to be inspected at the inspection for certification and periodic inspection. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Sections 91.25–40, 169.255, and 189.25–40.

In §§ 91.25–40 and 189.25–40 we propose adding the terms ''periodic inspection'' to require sanitation inspections at the inspection for certification and periodic inspection. In § 169.255, we propose adding the terms ''periodic inspection'' and ''annual inspection'' to require sanitation inspections at the inspection for certification, periodic inspection, and annual inspection. We also propose to remove the term ''reinspection.'' We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Sections 91.25–45 and 189.25–45.

In §§ 91.25–45 and 189.25–45, we propose adding the terms ''periodic inspection'' to require inspections for fire hazards at the inspection for certification and periodic inspection. We are proposing these changes to align with the international standards provided in SOLAS.

Section 98.25–95.

In § 98.25–95, we propose adding the terms ''inspection for certification'' and ''periodic inspection'' to require inspections of anhydrous ammonia tanks at the inspection for certification and periodic inspection. We also propose to remove the term ''biennial''. We are proposing these changes to align with the international standards provided in SOLAS.

Section 110.30–5.

We propose revising § 110.30–5 to require inspection of electric installations and electric equipment at each inspection for certification and periodic inspection. Currently, § 110.30–5 requires these inspections annually and biennially. We are proposing these changes to align with the international standards provided in SOLAS.

Sections 115.812 and 176.812.

In §§ 115.812 and 176.812, we propose removing the 3-year inspection interval for pressure vessels and boilers on small passenger vessels. These sections would continue to cross-reference tests and inspections in 46 CFR 61.10. Proposed changes to subpart 61.10 would maintain the frequency of inspections for pressure vessels and harmonize inspection requirements with the proposed 5-year COI. The current rules require tests and inspections of this equipment at each inspection for certification. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Sections 133.45, 169.245, and 199.45.

In §§ 133.45, 169.245, and 199.45, we propose adding the terms ''and periodic inspection'' to require tests and inspections of lifesaving equipment at the inspection for certification and periodic inspection. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Section 134.120.

In § 134.120, we propose adding the terms ''and periodic inspection'' to require tests and inspections of liftboat jacking systems, liftboat legs, liftboat leg pads, arrangements for the supply of water to fire mains, and items listed in 46 CFR 126.430 at the inspection for certification and periodic inspection. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Section 169.239.

In § 169.239, we propose adding the terms ''and periodic inspection'' to require tests and inspections of the hull structure and its appurtenances at the inspection for certification and periodic inspection. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Section 169.241.

We propose amending § 169.241 to require examinations and tests of the engine starting system, engine control mechanism, auxiliary machinery, fuel systems, sea valves and bulkhead closure valves, and bilge and drainage systems at the periodic inspection and the inspection for certification. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Section 169.243.

We propose amending § 169.243 to require examinations and tests of the electrical cable, overload or circuit protective devices, rotating machinery, the fire detection and alarm system, storage batteries, and generators at the periodic inspection and the inspection for certification. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Section 169.251.

In § 169.251, we propose adding the terms ''and periodic inspection'' to require inspections and operational tests of the steering apparatus at the inspection for certification and periodic inspection. These tests determine whether the steering apparatus is in satisfactory condition and fit for the service intended. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Section 169.253.

In § 169.253 we propose adding the terms ''and periodic inspection'' to require examinations and tests of the ship's outfit, such as ground tackle, navigation lights, and compass, at the same intervals as the inspection for certification. These tests determine whether the ship's outfit is in satisfactory condition and fit for the service intended. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Section 169.257.

In § 169.257, we propose adding the terms ''periodic inspection'' and ''annual inspection'' to require the vessel owner or operator to correct any unsafe practices and hazardous situations observed by the marine inspector during all vessel inspections. We also propose removing the term ''reinspection.'' We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Section 189.25–47.

In § 189.25–47, we propose adding the term ''and periodic inspection'' to require inspections for chemical and explosive hazards at the inspection for certification and periodic inspection. We are proposing these changes to align with the international standards provided in SOLAS. These changes would also provide vessel owners and operators with more flexibility to schedule required inspections and reduce paperwork associated with these inspections.

Section 195.11–15.

We propose revising § 195.11–15 to require inspection of accommodation, power and chemical stores vans during each inspection for certification and periodic inspection. Currently, § 195.11–15 requires these inspections at 2-year intervals. We are proposing these changes to align with the international standards provided in SOLAS.

(j) Application for Annual Inspection of Passenger Vessels and Nautical School Ships

Sections 71.25–5, 115.404, 167.15–20, and 176.404.

Under 46 U.S.C. 3309, we propose requiring in §§ 71.25–5, 115.404, 167.15–20, and 176.404 that an application for the annual inspection must be submitted at least 30 days before the current COI expires.

Currently, subchapter H passenger vessels, nautical school vessels inspected under 46 CFR 167.15, and subchapters T and K small passenger vessels on international voyages are required to have a 1-year COI. These vessels would continue to obtain and

maintain 1-year COIs and would undergo an inspection for certification each year. Subchapter H passenger vessels need to be inspected more frequently to ensure vessel and passenger safety due to the number of passengers carried and the increased risk associated with international voyages. Nautical school ships also need to be inspected more often due to the lack of experience of the students on board. Also, 46 U.S.C. 3307 requires small passenger vessels (subchapters T and K) carrying more than 12 passengers on an international voyage to undergo an inspection for certification each year.

Alternate Hull Examination (AHE) Program.

The Coast Guard conducts hull examinations on all inspected passenger vessels to evaluate their seaworthiness and to ensure overall passenger safety. Currently, as required by regulations, these examinations are conducted in drydock; however, many vessels on inland rivers are unable to reach these facilities without significant hardship. Because of advances in technology, the Coast Guard has determined that an underwater hull examination, coupled with a thorough internal structural examination, offers a safe and reasonable alternative to drydocking for vessels operating exclusively in ''low risk'' environments. Low risk environments are described in the discussion of eligibility requirements below. Based on this conclusion, the AHE Program was developed.

This proposed rule would establish the AHE Program in regulation. The program would allow for drydock extensions for up to 30 or 60 months, depending on the method you choose, for qualifying passenger vessels inspected under 46 CFR subchapters H, K, or T. This program would allow these vessels to undergo an indefinite number of alternate hull examinations instead of traditional drydock examinations.

(a) General

The proposed rule contains organizational and editorial changes to the regulations for the AHE Program.

Sections 71.50–5, 115.600, and 176.612.

We propose redesignating §§ 71.50–5, 115.600, and 176.612 as §§ 71.50–35, 115.605, and 176.665, respectively. Also, we propose redesignating §§ 115.612, 115.630, 115.675, 176.612, 176.630, and 176.670 as §§ 115.665, 115.670, 115.675, 176.665, 176.670, and 176.675. The proposed rule would add several new sections for the AHE Program and the Underwater Survey Program. These proposed organizational changes would keep similar requirements together.

Sections 71.50–35, 115.665, and 176.665.

We propose adding the words ''underwater survey'' in the newly redesignated §§ 71.50–35, 115.665, and 176.665. This change would ensure that each vessel would have a plan on board that shows the vessel's scantlings whenever the vessel undergoes an examination, survey, or repairs. Vessel scantlings are dimensions of structural parts such as frames, girders, and plating used in shipbuilding. We propose adding the option of an underwater survey as part of the AHE Program for subchapters H, K, and T.

(b) Definitions

Sections 71.50–1, 115.600, and 176.600.

We propose amending the definitions for ''drydock examination'' and ''internal structural examination,'' and adding the definition of ''underwater survey'' in § 71.50–1. We propose adding the definitions for ''drydock examination,'' ''internal structural examination,'' and ''underwater survey'' in §§ 115.600, and 176.600. These definitions would apply to subchapters H, K, and T. We propose adding the term ''appurtenances'' that was missing from the definition of ''drydock examination.'' The following are examples of appurtenances: sea chests, propellers, rudders, and tailshafts. We propose removing the paragraph designations from all definitions within all 3 sections. We propose adding the definition of ''underwater survey'' to introduce and clarify this examination process in our regulations.

(c) AHE Program Description

Sections 71.50–15, 115.620, and 176.620.

We propose adding §§ 71.50–15, 115.620, and 176.620 to explain the AHE Program for certain passenger vessels and list the four steps of the program: the application process, the preliminary examination, the pre-survey meeting, and the hull examination. The hull examination includes an underwater survey that may be conducted with divers or an underwater remotely operated vehicle (ROV). If divers are exclusively used for the underwater survey portion of the AHE examination process, you may receive an extension of up to 30 months. If a Coast Guard-accepted underwater ROV is used, you may receive an extension of up to 60 months (5 years).

(d) Eligibility Requirements

Sections 71.50–17, 115.625, and 176.625.

We propose adding §§ 71.50–17, 115.625, and 176.625 that contain eligibility requirements for the AHE Program and include construction, operation, and vessel condition requirements. To qualify for enrollment in the AHE Program, vessels must—

- Be constructed of steel or aluminum;
- Have an adequate hull protection system;
- Have operated exclusively in fresh water since the last drydock examination;
- Operate in rivers or protected lakes; and
- Operate within 0.5 nautical miles from shore, or operate in water shallow enough so the vessel itself can provide adequate safe refuge for all persons on board in the event of a hull breech. To determine whether your vessel can provide adequate safe refuge you must consider its stability and physical space.

In addition, the OCMI must accept the vessel's overall condition, history of hull casualties and deficiencies, and the AHE Program application.

Vessels that meet these criteria face much lower safety risks compared to vessels that operate in salt-water and vessels constructed of wood or fiberglass.

In paragraph (a)(2) in each of these sections, an ''adequate hull protection system'' means a method of protecting the vessel's hull from corrosion. Frequently, this is accomplished by the application of a combination of hull coatings and cathodic protection (usually zincs).

(e) Application Requirements

Sections 71.50–19, 115.630, and 176.630.

We propose adding §§ 71.50–19, 115.630, and 176.630 that contain the AHE Program application requirements for vessels that meet the eligibility criteria for this program. These sections establish when and to whom the vessel owner or operator must submit an application, and what information the application must contain. The application must be in the form of a letter and must include—

- The time and place for conducting the hull examination;
- The names of the diving contractors or the underwater ROV company;
- Plans and drawings of the vessel;
- Information on the condition of the vessel;
- Plans for conducting the hull examination;

• Plans for the annual condition assessment;

• Plans for conducting preventative hull maintenance; and

• The name and qualifications of third-party examiners (if applicable).

The annual hull condition assessment is required to ensure periodic evaluation of the vessel's hull condition. It should include an abbreviated survey (spot check) of the vessel's underwater hull, including its protection system and through-hull fittings and appurtenances, any repairs that have been made, and any suspect areas of the hull. This would also give you an opportunity to complete any necessary preventative maintenance such as replacement of zincs and repair of hull coatings.

The AHE Program is recognized to be time and resource intensive for the Coast Guard when compared to the traditional drydock examination process, particularly when divers are used exclusively for the underwater hull survey. We introduce the ''third-party examiner'' in this proposed rulemaking (as allowed in 46 U.S.C. 3103) to enable the Coast Guard to use its resources more effectively. The third-party examiner is an individual who has been hired by the vessel owner or operator, and accepted by the OCMI, to oversee the entire examination process under the AHE Program. This person must be familiar with the inspection procedures and his or her responsibilities under this program.

(f) Preliminary Examination Requirements

Sections 71.50–21, 115.635, and 176.635.

We propose adding §§ 71.50–21, 115.635, and 176.635 that contain requirements regarding the preliminary examination (if required) and the presence of the third-party examiner. During this exam, divers must assess the overall condition of the vessel's hull and identify specific concerns to be addressed during the underwater hull examination. The preliminary examination is not required when an underwater ROV is used.

(g) Pre-Survey Meeting

Sections 71.50–23, 115.640, and 176.640.

We propose adding §§ 71.50–23, 115.640, and 176.640 that contain requirements for the pre-survey meeting in which the details of the examination process of the AHE Program are discussed with the OCMI. A vessel owner or operator must request this meeting in writing at least 30 days in advance of the proposed examination date. The pre-survey meeting must take place 2 weeks before the examination.

(h) AHE Procedure

Sections 71.50–25, 115.645, and 176.645.

We propose adding §§ 71.50–25, 115.645, and 176.645 that contain requirements for conducting the underwater survey. To complete the underwater survey you must—

• Perform a general examination of the underwater hull plating and a detailed examination of all hull welds, propellers, tailshafts, rudders, and other hull appurtenances;

• Measure rudder and tailshaft bearing clearances and examine all sea chests;

• Remove and inspect all sea valves in the presence of a marine inspector;

• Remove all passengers from the vessel when the sea valves are being examined, if required by the Officer in Charge, Marine Inspection;

• Allow access to all internal areas of the hull for examination; and

• Meet the procedural requirements for divers or underwater ROVs in §§ 71.50–27, 115.650, and 176.650.

In paragraph (a)(4) of these sections, the OCMI may require removal of all passengers from the vessel during the examination of sea valves. Removal of passengers is likely to occur if there is a risk to the watertight integrity of the hull or an inability to keep the essential machinery in operation. The marine inspector may examine any areas of the vessel the OCMI deems necessary to ensure the safety of passengers and crew. In the event that damage or potential problems are found, the OCMI may require the vessel to be taken out of service or dry-docked. For example, if the vessel had a grounding, an allision, collision, or if structural damage was suspected for any reason, the OCMI may require the vessel to be dry-docked to examine the damage.

(i) AHE Program options: Divers or Underwater ROV

Sections 71.50–27, 115.650, and 176.650.

We propose adding §§ 71.50–27, 115.650, and 176.650 that include the requirements of the two options, divers or an underwater ROV, to conduct the underwater survey.

The proposed rule would require the use of a third-party examiner when divers are used exclusively for the underwater examination of hull plating. The proposed rule would also require appropriate underwater audio and video equipment to record the examination when divers are used. We recommend a maximum water velocity of 1 knot for safe dive operations unless divers are line-tended as provided for in 46 CFR 197.430.

If divers are used exclusively for the underwater survey portion of the AHE Program, a third-party examiner must observe the entire examination process. By requiring the use of a third-party examiner, Coast Guard marine inspectors would need to be present only during critical portions of the examination process such as—

• Examination of critical welds, propeller, rudder, other hull appurtenances, sea chests, and sea valves;

• Plugging of sea chests and the removal of sea valves;

• Gauging of rudder and tailshaft bearings; and

• Any other portions deemed necessary by the OCMI.

Since the entire underwater survey is recorded on video, the OCMI may review, as necessary, any details that were not observed at the time of survey in order to support his or her drydock extension recommendation.

If an underwater ROV is used for the examination of hull plating, the presence of a third-party examiner is not required because the ROV operator will take the place of a third-party examiner during the underwater survey, which is the most time-intensive portion of the AHE examination process. We recognize that divers would be used for the portions of the underwater survey that the underwater ROV is incapable of covering. Depending on the vessel's hull configuration, the underwater ROV may not be able to access as much as 10 to 20 percent of the vessel's hull plating. In addition, divers would be used to examine sea valves, sea chests, hull appurtenances, and rudders. A Coast Guard marine inspector would normally be present during these portions of the examination regardless of whether a third-party examiner is present. The additional time required of the Coast Guard inspectors would be negligible and would not justify requiring a third party examiner to be present during those portions of the survey when divers are used.

Current ROV technology available to the marine industry includes underwater inspection vehicles with integrated non-destructive testing (NDT) sensors, high-resolution video systems, acoustic navigation and positioning systems, and data management systems with digital recording. Such systems are capable of capturing detailed, quantifiable data on hull plating thickness, coating thickness, coating condition, cathodic protection field, plating discontinuities (crack detection),

and hull form analysis. With the use of acoustic navigation and positioning systems, all survey data can be correlated to an exact position (within a few inches) on the vessel's hull, which provide permanent, repeatable results, for long-term trend analysis. Along with video imaging of the survey, inspection reports generated by digital data analysis can include color visualizations (maps) of the vessel's hull that indicate plating thickness (or wastage), coating thickness, and cathodic protection.

If you choose to use an underwater ROV, the design, equipment specifications, results-reporting capabilities, operator qualifications, and quality assurance methods must be accepted by the Commandant (G–MOC). Additionally, the underwater ROV must undergo at least one operational test before acceptance. Once accepted, the ROV system may be employed on any Coast Guard-inspected vessel enrolled or seeking entrance into the AHE Program. This acceptance would be valid for an indefinite period of time, unless revoked by the Commandant.

Because modern underwater ROV technology offers a hull examination process far superior to traditional underwater survey methods, and at least equivalent to hull examinations conducted in drydock, a 60 month (5-year) hull examination interval is proposed when an Underwater ROV is used in the AHE process. A 5-year interval would be in line with the current drydock examination interval required by regulations for passenger vessels operating in fresh water.

(j) Reports

Sections § 71.50–29, 115.655, and 176.655.

We propose adding §§ 71.50–29, 115.655, and 176.655 that provide requirements for the hull examination report. The OCMI would evaluate the hull examination report and submit it along with his or her recommendation to the Commandant (G–MOC).

If divers are used exclusively to examine the underwater hull plating, you must provide a written report to the OCMI. This report must include thickness gauging results, bearing clearances, a copy of the audio and video recordings, and any other information that will help the OCMI evaluate your vessel for a drydock extension. The third-party examiner must sign the report and confirm the validity of its contents. By signing the report, the third-party examiner confirms that the results of the report are true and accurate. If you used divers exclusively to examine the hull plating and the report is approved, you will receive a drydock extension of up to 30 months. If your report is not approved, the OCMI may require your vessel to be dry-docked to ensure passenger safety.

When an underwater ROV is used to examine the hull plating, you must provide a report to the OCMI in a format acceptable to the Commandant (G–MOC). If the underwater ROV report is approved, you will receive a drydock extension of up to 60 months. If your report is not approved the OCMI may require your vessel to be drydocked to ensure passenger safety.

(k) Continued Participation

Sections § 71.50–31, 115.660, and 176.660.

We propose adding §§ 71.50–31, 115.660, and 176.660 that establish the requirements for continued participation in the AHE Program. To continue to participate in the AHE Program, the proposed rule would require you to—

(a) Conduct an annual hull condition assessment that evaluates your vessel's hull, through-hull fittings and appurtenances and provides ultrasonic test results of high risk areas of the vessel's hull;

(b) Conduct preventive maintenance which must include—

(1) Inspection and replacement (as needed) of zinc anodes;

(2) Inspection and cleaning (as needed) of the underwater hull;

(3) Inspection and maintenance of the rudder and shaft seals;

(4) Inspection and operational testing of sea valves; and

(5) Flushing of sea chests and sea strainers; and

(c) Submit the results of your preventive maintenance plan and hull condition assessment report to the Officer in Charge, Marine Inspection, annually.

These reports must conform to the plans that you submitted in the application and may be in the form of reports or checklists, whichever format is more effective.

Participating in the AHE Program is entirely voluntary. Once a vessel enters the program, it may receive an indefinite number of drydock extensions; however, the OCMI may require it to be dry-docked if the examination process of the AHE Program is deemed inadequate for evaluating its hull condition or if out-of-water repairs are necessary.

Underwater Survey Program

The proposed rule would provide owners and operators of U.S. passenger vessels, nautical school ships, and sailing school vessels with steel or aluminum hulls (inspected under 46 CFR subchapters H, K, R, and T) the option of alternating an underwater hull survey with a drydock examination. In addition, it would establish vessel qualifications for the Underwater Survey Program.

In conjunction with this proposed rule, the Coast Guard would update NVIC 1–89 entitled ''Underwater Survey Guidance'' to include passenger vessels, nautical school ships, and sailing school vessels and to incorporate the option of using an underwater ROV instead of divers to examine the underwater hull plating.

If you choose to use an underwater ROV, the design, equipment specifications, results-reporting capabilities, operator qualifications, and quality assurance methods must be accepted by the Commandant (G–MOC). Additionally, the underwater ROV must undergo at least one operational test before acceptance witnessed by the Coast Guard. Once accepted, the ROV system may be employed on any Coast Guard-inspected vessel enrolled or seeking entrance into the Underwater Survey Program. This acceptance would be valid for an indefinite period of time, unless revoked by the Commandant.

(a) General

The proposed rule contains organizational and editorial changes to the regulations for the Underwater Survey Program.

Sections § 167.15–35 and 169.233.

We propose to add the term ''underwater survey'' to §§ 167.15–35 and 169.233. This change would require each vessel and barge to have a plan on board showing the vessel's scantlings during each underwater survey.

(b) Definitions

Sections 167.15–27 and 169.231.

We propose adding the definition of ''underwater survey'' in §§ 167.15–27 and 169.231. We propose adding the definition of ''underwater survey'' to introduce and clarify this examination process in subchapter R.

(c) Examination Intervals

Sections 71.50–3, 115.605, 167.15–30, 169.229, and 176.605.

In §§ 71.50–3, 115.605, 167.15–30, 169.229, and 176.605, we propose revising the requirements for the drydocking and internal structural examination intervals to allow the option to participate in an underwater survey for qualifying passenger vessels, nautical school ships, and sailing school vessels. The proposed revisions in §§ 71.50–3, 115.605, and 176.605 provide the underwater survey option

for passenger vessels on international voyages and passenger vessels not operated on international voyages. In § 167.15–30, the proposed revision would allow nautical school ships operating in fresh and salt water the option to have an underwater survey instead of drydocking. In § 169.229, the proposed revision would allow sailing school vessels operating in fresh and salt water the option to have an underwater survey instead of drydocking.

(d) Vessel Qualifications and Application

Sections 71.50–5, 115.615, 167.15–33, 169.230, and 176.615.

We propose adding §§ 71.50–5, 115.615, 167.15–33, 169.230, and 176.615 to establish requirements for vessels to qualify for an underwater survey instead of a drydock examination at alternating intervals. The OCMI may approve an underwater survey for a vessel if it is less than 15 years of age and, if it meets the structural and operational requirements of these sections. A vessel over 15 years of age may also qualify for an underwater survey, if the results of hull gaugings taken at the drydock examination preceding the proposed underwater survey find no appreciable deterioration and the OCMI provides a recommendation to the Commandant (G-MOC). The OCMI would notify the vessel owner or operator of approval. These sections also outline the application contents and submission requirements for an underwater survey.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040; February 26, 1979). A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT follows:

Frequency of Inspection

This portion of the rulemaking affects a total of 10,973 vessels. Potential benefits of this proposal include—

- A harmonized inspection system enabling vessel owners and operators to receive their COI, SOLAS certificates, and Load Line Certificates simultaneously;
- Increased flexibility for vessel owners and operators by establishing up to a 3 month window on either side of the COI anniversary date in which to conduct inspections; and
- A reduction in the burden placed on vessel owners by requiring less time expended on inspections. We have identified 5,531 vessels (freight barges, freight ships, mobile offshore drilling units, industrial vessels, oceanographic research vessels, offshore supply vessels, sailing school vessels, seagoing towing vessels, tank barges, and tank ships) that would be required to change from a 2-year to a 5-year inspection interval. For the next 30 years, we estimate an annual burden reduction of 35 minutes per vessel. We have also identified 5,442 small passenger vessels that would change from a 3-year to a 5-year inspection interval; for the next 30 years, we estimate an annual burden reduction of 13.5 minutes per vessel.

We considered whether this proposed rule would have an impact on the currently assessed annual vessel inspection fees. The Coast Guard considers the impact to be minimal; and therefore, have a negligible effect on the annual vessel inspection fee schedule. Accordingly, this rule does not change annual vessel inspection fees. However, we will initiate a rulemaking in 2000 that will reassess annual vessels inspection fees, and will account for all market condition changes.

Although this rulemaking proposes a restructuring of the inspection process, vessels would continue to be inspected once per year.

Alternate Hull Examination (AHE) Program

Certain passenger vessels, operating on restricted inland waterways, experience higher drydocking costs compared to vessels with convenient access to drydock facilities. These costs are related to the hull inspection process (e.g., lost revenue during transit to and from drydock facilities and time out of water). However, some of these vessels are at a lower risk for hull stress due to these operating environments. To alleviate this cost burden, we propose to offer the AHE Program as an option to drydock examinations. These alternatives may, in applicable cases, be less costly for owners or operators than drydocking. No costs are associated with this component of the rulemaking. Each vessel owner is given the option to choose the most cost-effective hull examination process. There are 51 passenger vessels that would be able to take advantage of the increased flexibility of this proposed rule.

Underwater Survey Program

The Underwater Survey Program would increase hull inspection flexibility for U.S. passenger vessel, nautical school ship, and sailing school vessel owners or operators. This program allows a vessel to undergo an underwater survey instead of a drydock examination and is currently available to most other classes of inspected vessels.

Due to the success of the Underwater Survey Program with these other vessel types, and the advanced underwater survey technology now available, the Coast Guard proposes that passenger vessel owners or operators have the option to alternate between underwater surveys and drydock examinations. There are no additional costs to the vessel owners or operators with this component of the rulemaking. Use of underwater surveys is completely voluntary and would only be undertaken if deemed cost effective by the vessel owner. There are 5,670 vessels that would be able to take advantage of the increased flexibility of this proposed rule.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This proposed rule would not increase costs to any of the affected vessels and, therefore, would not increase cost to small entities. We estimate this rule would slightly reduce their burden by requiring less time expended on inspections. It would also add flexibility by allowing alternative means for conducting drydock examinations. The anticipated benefits of this rulemaking to small entities would be as follows:

Frequency of Inspection

- Requiring a COI certificate once every 5 years instead of every 2 or 3 years would reduce the collection-of-information burden for all portions of the affected populations of the industry, including small entities. We determined that this rule would reduce the collection-of-information burden over a 30-year period.
- The inspection cycle would align better with international standards,

enabling vessel owners and operators to complete several major inspections and surveys at the same time. This allows small businesses to reduce their inspection cost and increase their productivity.

- Requiring annual inspections that are less time consuming would reduce the number of total inspection hours per vessel. The purpose of annual inspections is to examine specific areas of concern on vessels between the COI and periodic inspections.
- The inspection cycle for small passenger vessels (changing from a 3-year to a 5-year inspection for certification interval) would not include a periodic inspection. After careful consideration, we determined that periodic inspections for small passenger vessels would have increase industry's burden for each inspection by an estimated 7 minutes per vessel annually. Therefore, the proposed rule would only require COI and annual inspections, reducing the inspection burden for all small passenger vessels.

AHE Program

These regulatory options would reduce the inspection burden for vessels that must travel a great distance to drydock while providing an equivalent level of safety as drydock hull examinations. In cases where it is cost efficient for the vessel owner, these options would greatly decrease the amount of time and resources associated with a traditional drydock inspection and would therefore be beneficial to small entities. Because each vessel owner or operator experiences varying transit distances and financial impact, each owner should assess these factors on an individual basis.

Underwater Survey Program

This voluntary regulatory option would align U.S. passenger vessel regulations with international standards. This alignment would help the owners and operators of U.S. passenger vessels by granting them the same flexibility given to other vessel classes for conducting drydock examinations. By preventing significant delays and revenue loss, this option would be more cost-effective than traditional drydock examinations for small entities that wish to participate in this voluntary option.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. No data is available at this time to determine how many of the vessels affected by this proposed rule are small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. James W. Cratty, Office of Standards Evaluation and Development (G–MSR–2), 202–267–6742.

Small entities may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations, to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for two collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The titles and descriptions of the collection of information, descriptions of those who must collect the information, and estimates of the total annual burden, follow. Estimates cover the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing the reviewing collection.

The information collection requirements of this proposed rule are addressed in the previously approved OMB collections 2115–0007, and 2115–0133.

OMB Collection 2115–0007

Title: Application for Vessel Inspection and Waiver.

Summary of the Collection of Information: The frequency of inspection portion of this proposed rule would require vessel owners and operators to change the frequency in which they send an ''Application for Inspection of U.S. Vessel (CG–3752)''. These changes revise the previously approved OMB Collection 2115–0007. This collection of information would be affected by proposed changes in the following sections: 46 CFR 31.01–15, 91.25–5, 126.420, 169.205, and 189.25–5.

Need for Information: This rulemaking would reduce the paperwork burden for affected vessels. Vessel owners or operators would be required to send an application (CG–3752) to schedule an inspection for renewal of a Certificate of Inspection once every 5 years, rather than every 2 or 3 years.

Proposed Use of Information: The application provides the Coast Guard with basic vessel information which is necessary for the initial planning and scheduling of inspection.

Description of the Respondents: This rule would affect respondents who previously had 2 or 3-year inspection intervals for their vessel's Certificate of Inspection (COI). This rule would implement a 5-year inspection interval. Previous 2-year COI vessel classes include freight barges, freight ships, industrial vessels, mobile offshore drilling units, oceanographic research vessels, offshore supply vessels, seagoing tows, tank barges, and tank ships. Previous 3-year COI vessel classes include small passenger vessels.

Number of Respondents: The total number of respondents for the collection as submitted to OMB is 11,221. The regulation would affect 10,973 respondents that currently have 2 or 3-year inspection intervals.

Frequency of Response: For the entire collection, we anticipate 2,443 total annual responses. Vessel owners will need to respond once per COI period. Completing and mailing the application constitutes a response. The Coast Guard anticipates that 2,195 vessels per year will get new COIs under the new 5-year inspection interval (10,973 respondents affected by this rule / 5 years).

Burden of Response: We estimate that this collection of information would place a burden of 613 hours. The annual hour burden created by this regulation for vessels with 5-year COIs would be 549 hours (2,195 COI/Year × 0.25 hours). We expect operators to need 15 minutes at most to complete and mail the application.

Estimate of Total Annual Burden: There would be a total annual burden of

$24,500. The annual burden attributed to this rulemaking for vessels with a 5-year COI would be $21,960 (549 hours × the private industry wage rate of $40 per hour).

OMB Collection 2115–0133

Title: Various Forms and Posting Requirements Under Title 46 CFR Concerning Vessel Inspections.

Summary of the Collection of Information: This proposed rule would require vessel owners and operators to change the frequency in which they post COIs on vessels and apply for participation in AHE and Underwater Survey Programs. These changes revise and amend the previously approved OMB Collection 2115–0133.

This collection of information would be affected by proposed changes in the following sections:

Frequency of Inspection. 46 CFR 31.05–10, 91.01–10, 107.211, 115.107, 126.250, 169.207, 176.107, and 189.01–10.

AHE Program. 46 CFR 71.50–19, 115.630, and 176.630.

Underwater Survey Program. 46 CFR 71.50–5, 115.615, 167.15–33, 169.230 and 176.615.

Need for Information:

Frequency of Inspection. This rulemaking would reduce the paperwork burden for affected vessels. Vessel owners or operators would renew Certificates of Inspection once every 5 years, rather than every 2 or 3 years. A Certificate of Inspection is necessary to allow a Coast Guard inspector to evaluate the condition of a specific vessel and to ensure it is fit for the service for which it is intended.

AHE Program. The application for underwater hull inspection would provide the Officer in Charge, Marine Inspection (OCMI) with information necessary to determine if a vessel is eligible for the AHE Program. The application includes a preventative maintenance plan and a hull condition assessment plan.

Underwater Survey Program. Passenger vessels, nautical school ships, and sailing school vessels with steel or aluminum hulls may be considered for an alternative underwater survey instead of drydocking examinations, provided the vessel is fitted with an effective hull protection system and meets certain requirements. Depending on the age of the vessel, owners must apply to the OCMI or Commandant (G–MOC) for approval of underwater surveys instead of drydock examinations for each vessel. This is a voluntary collection of information, which is intended to allow greater flexibility for owners of passenger vessels. In addition, this underwater survey option would align U.S. regulations with international standards.

Proposed Use of Information:

Frequency of Inspection. The Coast Guard uses the COI to evaluate the condition of a specific vessel and to ensure it is fit for the service for which it is intended.

AHE Program. The application for underwater hull inspection provides the OCMI with information necessary to determine if a vessel is eligible for the AHE Program.

Underwater Survey Program. The underwater survey application provides the OCMI information to determine if an underwater survey is sufficient to replace a drydock hull inspection.

Description of the Respondents:

Frequency of Inspection. This rule would affect respondents who previously had 2-year and 3-year COI interval. The rule would implement a 5-year inspection interval. Previous 2-year COI vessel classes include freight barges, freight ships, industrial vessels, MODUs, oceanographic research vessels, offshore supply vessels, seagoing tows, tank barges, and tank ships. Previous 3-year COI vessel classes include small passenger vessels.

AHE Program. The affected respondents are qualifying passenger vessels that operate exclusively on restricted, low-risk environments.

Underwater Survey Program. The affected respondents for this voluntary inspection process are all U.S. subchapter H, K, R, or T vessels, with steel or aluminum hulls.

Number of Respondents:

The total number of respondents for the collection as submitted to OMB is 13,121. The affected respondents by this rule are detailed below.

Frequency of Inspection. There are 11,213 vessels that have Certificates of Inspection. The regulation would affect 10,973 respondents that currently have 2 or 3-year inspection intervals.

AHE Program. We anticipate that 51 respondents would choose to take advantage of this program.

Underwater Survey Program. We anticipate that 85 respondents would choose to take advantage of this program.

Frequency of Response:

For the entire collection, we anticipate total annual responses of 3,384.

Frequency of Inspection. Vessel owners would need to respond once per COI period. The posting of the certificate constitutes a response. The Coast Guard anticipates that 2,195 vessels would get new COIs per year under the new 5-year inspection interval (10,973 respondents/5 years).

AHE Program. The Coast Guard expects the owners of 20 vessels to apply for participation in the AHE Program per year.

Underwater Survey Program. The Coast Guard expects the owners of 43 vessels to apply per year for underwater surveys.

Burden of Response:

Frequency of Inspection. The annual hour burden created by this regulation would be 1,098 hours (2,195 COI per year × 0.5 hours). We expect operators to need 30 minutes to post the certificate on each ship.

AHE Program. We expect 20 extension applications per year. Each application is expected to place a burden of two hours including research and legal review. Therefore, on average there would be a 40 annual hour burden (20 applications per year × 2 hours per application).

Underwater Survey Program. We expect 43 applications for underwater surveys per year. Each application would place a burden of two hours including research and legal review. Therefore, on average there would be an 86 annual hour burden (43 applications per year × 2 hours per application).

Estimate of Total Annual Burden:

The annual burden attributed to this rulemaking is $48,960 (1,224 hours times the private industry wage rate of $40 per hour).

Public Comments on Collection of Information:

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES.**

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become

effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

We have analyzed this proposed rule under E.O. 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

This rule deals exclusively with changing inspection intervals and providing voluntary dry-docking alternatives for certain passenger vessels. We considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph (34)(d), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 52

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 61

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 98

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 110

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 114

Incorporation by reference, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 115

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 125

Administrative practice and procedure, Authority delegation, Hazardous materials transportation, Incorporation by reference, Marine safety, Offshore supply vessels, Oil and gas exploration, Vessels.

46 CFR Part 126

Authority delegation, Hazardous materials transportation, Marine safety, Offshore supply vessels, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 132

Fire prevention, Hazardous materials transportation, Marine safety, Offshore supply vessels, Oil and gas exploration, Vessels.

46 CFR Part 133

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 134

Hazardous materials transportation, Marine safety, Offshore supply vessels, Oil and gas exploration, Provisions for liftboats, Vessels.

46 CFR Part 167

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 176

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 188

Marine safety, Oceanographic research vessels.

46 CFR Part 189

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

46 CFR Part 195

Marine Safety, Navigation (water), Oceanographic research vessels.

46 CFR Part 199

Cargo vessels, Incorporation by reference, Marine safety, Oil and gas exploration, Passenger vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR parts 2, 30, 31, 52, 61, 71, 90, 91, 98, 107, 110, 114, 115, 125, 126, 132, 133, 134, 167, 169, 175, 176, 188, 189, 195, and 199 as follows:

PART 2—VESSEL INSPECTIONS

1. Revise the authority citation for part 2 to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3306, 3307, 3703; E.O. 12334, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1).

§ 2.01–3 [Amended]

2. In § 2.01–3(a), remove the words, ‘‘, but less than 60 days,’’.

§ 2.01–5 [Amended]

3. In § 2.01–5(a), remove paragraphs (a)(3) and (4).

§ 2.01–8 [Amended]

4. In § 2.01–8(b), remove ‘‘§ 176.35–1’’ and add, in its place, ‘‘§§ 115.900 and 176.900’’.

5. In § 2.01–25—

a. Remove paragraph (a)(1)(v) and redesignate paragraphs (a)(1)(vi) through (viii) as paragraphs (a)(1)(v) through (vii), respectively;

b. In paragraph (b)(1), immediately following the words ‘‘subchapter I (Cargo and Miscellaneous Vessels),’’ add the words ‘‘subchapter K (Small Passenger Vessels Carrying more than 150 Passengers or with overnight accommodations for more than 49 Passengers), subchapter L (Offshore Supply Vessels),’’; and

c. Revise paragraphs (a)(4), (b)(2), (e)(2), and (f) to read as follows:

§ 2.01–25 International Convention for Safety of Life at Sea, 1974.

(a) * * *

(4) The Federal Communications Commission will issue the following certificates:

(i) Cargo Ship Safety Radio Certificate.

(ii) Exemption Certificate.

* * * * *

(b) * * *

(2) For vessels other than passenger vessels, you must contact the local office of the Federal Communications Commission to apply for the inspection concerning the issuance of a Cargo Ship Safety Radio Certificate.

* * * * *

(e) * * *

(2) The Federal Communications Commission issues the Exemption Certificate, which modifies the Cargo Ship Safety Radio Certificate.

(f) *Availability of Certificates.* The Convention certificates must be on board the vessel and readily available for examination at all times.

* * * * *

PART 30—GENERAL PROVISIONS

6. Revise the authority citation for part 30 to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307, 3703; 49 U.S.C. 5103, 5106; 49 CFR 1.45, 1.46; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–5 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

7. Add § 30.10–2a to read as follows:

§ 30.10–2a Anniversary date—TB/ALL.

The term *anniversary date* means the day and the month of each year, which corresponds to the date of expiration of the Certificate of Inspection.

PART 31—INSPECTION AND CERTIFICATION

8. Revise the authority citation for part 31 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307, 3703; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 588013 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46. Section 31.10–21 also issued under the authority of Sect. 4109, Pub. L. 101–380, 104 Stat. 515.

§ 31.01–1 [Amended]

9. In § 31.01–1(a), remove the words ‘‘biennially, annually,’’ and add, in their place, the words ‘‘every 5 years’’.

10. In § 31.01–15, revise the section heading and paragraph (a) to read as follows:

§ 31.01–15 Application for a Certificate of Inspection—TB/ALL.

(a) You must submit a written application for an inspection for certification to the cognizant OCMI. To renew a Certificate of Inspection, you must submit an application at least 30 days before the expiration of the tank vessel's current Certificate of Inspection. When renewing a Certificate of Inspection, you must schedule an inspection for certification within 3 months before the expiration date of the current Certificate of Inspection.

* * * * *

11. In § 31.05–10, revise the section heading and paragraph (a) to read as follows:

§ 31.05–10 Period of validity for a Certificate of Inspection—TB/ALL.

(a) A Certificate of Inspection is valid for 5 years.

* * * * *

12. In § 31.10–15, revise paragraph (a) and add paragraph (c) to read as follows:

§ 31.10–15 Inspection for Certification—TB/ALL.

(a) After receiving an application for inspection, the OCMI will inspect a tank vessel in his or her jurisdiction once every 5 years. The OCMI will ensure that every tank vessel is of a structure suitable for the carriage of flammable and/or combustible liquids in bulk and for the proper grade or grades of cargo the vessel carries while in service. If the OCMI deems it necessary, he or she may direct the vessel to be put in motion, and may adopt any other suitable means to test the tank vessel and its equipment.

* * * * *

(c) If the vessel passes the inspection for certification, the OCMI will issue a new Certificate of Inspection.

13. Revise § 31.10–17 to read as follows:

§ 31.10–17 Annual and periodic inspections—TB/ALL.

(a) *Annual inspection.* Your vessel must undergo an annual inspection within 3 months before or after each anniversary date, except as specified in paragraph (b) of this section.

(1) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(2) The scope of the annual inspection is the same as the inspection for certification but in less detail unless the cognizant marine inspector finds deficiencies or determines that a major change has occurred since the last inspection. If deficiencies are found or a major change to the vessel has occurred, the marine inspector will conduct an inspection more detailed in scope to ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the annual inspection, the marine inspector will endorse your vessel's current Certificate of Inspection.

(3) If the annual inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(4) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

(b) *Periodic inspection.* Your vessel must undergo a periodic inspection within 3 months before or after the second or third anniversary of the date of your vessel's Certificate of Inspection. This periodic inspection will take the place of an annual inspection.

(1) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(2) The scope of the periodic inspection is the same as that for the inspection for certification, as specified in § 31.10–15(b). The OCMI will ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the periodic inspection, the marine inspector will endorse your vessel's current Certificate of Inspection.

(3) If the periodic inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(4) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

14. Add § 31.10–17a to read as follows:

§ 31.10–17a Certificate of Inspection: Conditions of validity.

To maintain a valid Certificate of Inspection, you must complete your annual and periodic inspections within the periods specified in § 31.10–17 (a) and (b) and your Certificate of Inspection must be endorsed.

§ 31.10–18 [Amended]

15. In § 31.10–18—

a. In paragraph (d), remove the words ''biennially by'' and add, in their place, the words ''at the inspection for certification and the periodic inspection by'' and remove the words ''Prior to the biennial inspection'' and add, in their place, the words ''Before the inspection for certification and periodic inspection'';

b. In paragraph (e), immediately following the words ''inspection for certification'' add the words '', periodic inspection,''; and

c. In paragraph (h), immediately following the words ''inspection for certification'' add the words '', periodic inspection,''.

§ 31.40–1 [Amended]

16. In § 31.40–1, immediately following the words ''international voyage.'' add the words ''(See § 30.01–6 of this chapter.)''.

17. Revise § 31.40–15 to read as follows:

§ 31.40–15 Cargo Ship Safety Radio Certificate—T/ALL.

Every tankship equipped with a radio installation on an international voyage must have a Cargo Ship Safety Radio Certificate. Each radio installation must meet the requirements of the Federal Communication Commission and the International Convention for Safety of Life at Sea.

18.–19. Revise § 31.40–35 and its section heading to read as follows:

§ 31.40–35 Availability of Certificates.

The Convention certificates shall be on board the vessel and readily available for examination at all times.

20. Revise § 31.40–40 to read as follows:

§ 31.40–40 Duration of Convention certificates—T/ALL.

(a) The following certificates are valid for a period of not more than 60 months.

(1) A Cargo Ship Safety Construction Certificate.

(2) A Cargo Ship Safety Equipment Certificate.

(3) A Safety Management Certificate.

(4) A Cargo Ship Safety Radio Certificate.

(b) An Exemption certificate must not be valid for longer than the period of the certificate to which it refers.

(c) A Convention certificate may be withdrawn, revoked, or suspended at any time when it is determined that the vessel is no longer in compliance with applicable requirements. (See § 2.01–70 of this chapter for procedures governing appeals.)

PART 52—POWER BOILERS

21. Revise the authority citation for part 52 to read as follows:

Authority: 46 U.S.C. 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 52.01–50 [Amended]

22. 52.01–50(k)(1), immediately following the words ''inspection for certification'' add the words '', periodic inspection''.

PART 61—PERIODIC TESTS AND INSPECTIONS

23. Revise the authority citation for part 61 to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p.277; 49 CFR 1.46.

§ 61.05–10 [Amended]

24. In § 61.05–10, in Table 61.05–10, remove the letters ''COI'', wherever they appear, and add, in their place, the number ''2.5''; and, in footnote number 1 to Table 61.05–10, remove the words ''; where COI is used, the intervals coincide with the applicable vessel's inspection for certification''.

25. In § 61.10–5, revise paragraphs (c), (h), and (i) to read as follows:

§ 61.10–5 Pressure vessels in service.

* * * * *

(c) *Special purpose vessels.* (1) If your vessel's Certificate of Inspection is renewed annually, the following must be examined under operating conditions at each inspection for certification: all tubular heat exchangers, hydraulic accumulators, and all pressure vessels used in refrigeration service.

(2) If your vessel's Certificate of Inspection is renewed less often than annually, the following must be examined under operating conditions twice every 5 years: all tubular heat exchangers, hydraulic accumulators, and all pressure vessels used in refrigeration service.

(3) No more than 3 years may elapse between any examination and its immediate predecessor.

* * * * *

(h) *Pneumatic tests.*

(1) Pressure vessels that were pneumatically tested before being stamped with the Coast Guard Symbol must be examined internally twice every 5 years and examined externally at each Inspection for Certification. No more than 3 years may elapse between any external examination and its immediate predecessor.

(2) For tanks whose design precludes a thorough internal or external examination, the thickness must be determined by a nondestructive method acceptable to the Officer in Charge, Marine Inspection.

(3) If (due to the product carried) your vessel's inspection intervals are prescribed in subchapter D (Tank Vessels), subchapter I (Cargo and Miscellaneous Vessels), or subchapter I–A (Mobile Offshore Drilling Units), you must comply with the pneumatic test regulations there, instead of the ones in this section.

(i) *Safety or relief valves on pressure vessels.*

(1) If your vessel's Certificate of Inspection is renewed annually, the marine inspector must check the settings of the safety or relief valves on all pressure vessels, except cargo tanks, at each inspection for certification.

(2) If your vessel's Certificate of Inspection is renewed less often than annually, the marine inspector must check the settings of the safety or relief valves on all pressure vessels, except cargo tanks, twice every 5 years. No more than 3 years may elapse between any check and its immediate predecessor.

(3) Cargo tank safety or relief valves must be checked at the interval required in subchapter D (Tank Vessels) or subchapter I (Cargo and Miscellaneous Vessels) of this chapter.

§ 61.15–5 [Amended]

26. In § 61.15–5(c), immediately following the words ''inspection for

certification'' add the words ''for vessels whose Certificates of Inspection are renewed each year. For other vessels, the setting must be checked twice within any 5-year period, and no more than 3 years may elapse between any check and its immediate predecessor''.

§ 61.15–10 [Amended]

27. In § 61.15–10(a), remove the words ''and at each inspection for certification'' and add, in their place, the words '', at each inspection for certification, and at each periodic inspection''.

§ 61.15–12 [Amended]

28. In § 61.15–12(a), immediately following the words ''inspection for certification'' add the words ''and periodic inspection''.

29. Revise § 61.20–1(a) to read as follows:

§ 61.20–1 Steering gear.

(a) The marine inspector must inspect the steering gear at each inspection for certification for vessels whose Certificate of Inspections are renewed each year. For other vessels, the marine inspector must inspect the steering gear twice within a 5-year period, and no more than 3 years may elapse between any inspection and its immediate predecessor. The marine inspector may inspect the steering gear more often, if necessary.

* * * * *

§ 61.20–3 [Amended]

30. In § 61.20–3, in paragraph (a), immediately following the words ''inspection for certification'' add the words ''and periodic inspection''; and, in paragraph (b), immediately following the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 61.30–15 [Amended]

31. In § 61.30–15, immediately following the words ''inspection for certification'' add the words '', periodic inspection''.

§ 61.30–20 [Amended]

32. In § 61.30–20, immediately following the words ''inspection for certification'' add the words '', periodic inspection''.

PART 71—INSPECTION AND CERTIFICATION

33. Revise the authority citation for part 71 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 3306, 3307; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

34. Add § 71.25–5(b) to read as follows:

§ 71.25–5 When made.

* * * * *

(b) You must submit your application for the annual inspection at least 30 days before your current certificate of inspection expires.

35. Revise § 71.50–1 to read as follows:

§ 71.50–1 Definitions relating to hull examinations.

As used in this part—

Drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body, and all through-hull fittings and appurtenances.

Internal structural examination means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo or fuel oil tanks.

Underwater survey means the examination of the vessel's underwater hull including all through-hull fittings and appurtenances, while the vessel is afloat.

36. In § 71.50–3 revise the section heading paragraph (a), and the introductory text of paragraph (b) to read as follows:

§ 71.50–3 Drydock examination, internal structural examination, and underwater survey intervals.

(a) If your vessel is operated on international voyages, it must undergo a drydock and internal structural examination once every 12 months unless it has been approved to undergo an underwater survey per § 71.50–5.

(b) If your vessel is operated on other than international voyages and does not meet the conditions in paragraphs (c) through (f) of this section, it must undergo a drydock and internal structural examination as follows unless it has been approved to undergo an underwater survey per § 71.50–5:

* * * * *

§ 71.50–5 [Redesignated as § 71.50–35 and Amended]

37. Redesignate § 71.50–5 as § 71.50–35; in paragraph (b), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, or underwater survey,''; in paragraph (c), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, or underwater survey''.

38. Add new § 71.50–5 to read as follows:

§ 71.50–5 Underwater Survey.

(a) The OCMI, may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) Less than 15 years of age;

(2) A steel or aluminum hulled vessel;

(3) Fitted with an effective hull protection system; and

(4) Described in § 71.50–3(a) or (b).

(b) For vessels less than 15 years of age, you must submit an application for an underwater survey to the Officer in Charge, Marine Inspection at least 90 days before your vessel's next required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The means for taking shaft bearing clearances;

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of survey; and

(7) A description of the hull protection system.

(c) If your vessel is 15 years old or older, the Commandant (G–MOC), may approve an underwater survey instead of a drydock examination at alternating intervals. You must submit an application for an underwater survey to the Officer in Charge, Marine Inspection at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a)(2) through (4) of this section;

(2) Your application includes the information in paragraphs (b)(1) through (7) of this section; and

(3) During the vessel's drydock examination that precedes the proposed underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After this drydock examination, the Officer in Charge, Marine Inspection submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination

results to the Commandant (G–MOC) for review.

39. Add § 71.50–15 to read as follows:

§ 71.50–15 Description of the Alternate Hull Examination Program for certain passenger vessels.

The Alternate Hull Examination (AHE) Program provides you with an alternative to drydock examination by allowing your vessel's hull to be examined while it remains afloat. This program has four steps: the application process, the preliminary examination, the pre-survey meeting, and the hull examination. Once you complete these steps, the Officer in Charge, Marine Inspection (OCMI) may recommend that the Commandant (G–MOC) extend the interval between your drydock examination dates (drydock extension). If divers are exclusively used for the underwater survey portion of the examination process, you may receive an extension of up to 30 months. If an underwater ROV is used, you may receive an extension of up to 60 months (5 years). At the end of this extension period, you may apply for additional drydock extensions under the AHE Program.

40. Add § 71.50–17 to read as follows:

§ 71.50–17 Eligibility requirements for the AHE Program for certain passenger vessels.

(a) Your vessel may be eligible for the AHE Program if—

(1) It is constructed of steel or aluminum;

(2) It has an effective hull protection system;

(3) It has operated exclusively in fresh water since its last drydock examination;

(4) It operates on rivers or protected lakes; and

(5) It operates exclusively in shallow water or within 0.5 nautical miles from shore.

(b) In addition to the requirements in paragraph (a), the Officer in Charge, Marine Inspection will evaluate the following information when determining your vessel's eligibility for the AHE Program:

(1) The overall condition of the vessel, based on its inspection history.

(2) The vessel's history of hull casualties and hull-related deficiencies.

(3) The AHE Program application, as described in § 71.50–19.

41. Add § 71.50–19 to read as follows:

§ 71.50–19 The AHE Program application.

If your vessel meets the eligibility criteria in § 71.50–17, you may apply to the AHE Program. You must submit an application at least 90 days before the requested hull examination date to the Officer in Charge, Marine Inspection who will oversee the hull examination. The application must include—

(a) The proposed time and place for conducting the hull examination;

(b) The name of the participating diving contractor and, if applicable, the underwater remotely operated vehicle (ROV) company which must be accepted by the Commandant (G–MOC) under § 71.50–27;

(c) The name and qualifications of the third-party examiner, if applicable. This person must be familiar with the inspection procedures and his or her responsibilities under this program. The Officer in Charge, Marine Inspection has the discretionary authority to accept or deny use of any third-party examiner;

(d) A signed statement from your vessel's master, chief engineer, or the person in charge stating the vessel meets the eligibility criteria of § 71.50–17 and a description of the vessel's overall condition, level of maintenance, known or suspected damage, underwater body cleanliness, and the anticipated draft of the vessel at the time of the examination;

(e) Plans or drawings that illustrate the external details of the hull below the sheer strake;

(f) A detailed plan for conducting the hull examination in accordance with §§ 71.50–25 and 71.50–27, which must address all safety concerns related to the removal of sea valves during the inspection;

(g) A preventative maintenance plan for your vessel's hull, its related systems and equipment; and

(h) A plan for conducting the annual condition assessment of your vessel's hull which must include, at a minimum—

(1) An evaluation of your vessel's underwater hull including all through-hull fittings and appurtenances; and

(2) The ultrasonic test results of the vessel's hull, focused on areas that may be at high risk due to corrosion.

42. Add § 71.50–21 to read as follows:

§ 71.50–21 Preliminary examination requirements.

(a) If you use divers to examine the underwater hull plating, you must arrange to have a preliminary examination conducted by a third-party examiner, with the assistance of qualified divers. The purpose of the preliminary examination is to assess the overall condition of the vessel's hull and identify any specific concerns to be addressed during the underwater hull examination.

(b) If you use an underwater ROV to examine your vessel's hull plating, a preliminary examination and the participation of a third-party examiner will not be necessary.

43. Add § 71.50–23 to read as follows:

§ 71.50–23 Pre-Survey meeting.

(a) You must conduct a pre-survey meeting to discuss the details of the AHE procedure with the Officer in Charge, Marine Inspection. If you use divers to examine the underwater hull plating, the third-party examiner must attend the meeting and you must present the results of the preliminary examination. If you use an underwater ROV to examine the vessel's hull plating, then the ROV operator must attend the pre-survey meeting and address the underwater ROV's capabilities and limitations related to your vessel's hull design and configuration.

(b) A vessel owner or operator must request this meeting in writing at least 30 days in advance of the proposed examination date.

44. Add § 71.50–25 read as follows:

§ 71.50–25 AHE Procedure.

(a) To complete the underwater survey you must—

(1) Perform a general examination of the underwater hull plating and a detailed examination of all hull welds, propellers, tailshafts, rudders, and other hull appurtenances;

(2) Measure rudder and tailshaft bearing clearances and examine all sea chests;

(3) Remove and inspect all sea valves in the presence of a marine inspector;

(4) Remove all passengers from the vessel when the sea valves are being examined, if required by the Officer in Charge, Marine Inspection;

(5) Allow access to all internal areas of the hull for examination; and

(6) Meet the requirements in § 71.50–27.

(b) A marine inspector may examine any other areas deemed necessary by the Officer in Charge, Marine Inspection.

(c) The Officer in Charge, Marine Inspection may require you to drydock the vessel or otherwise take it out of service if the AHE uncovers potential problems to further assess the extent of the damage and to effect permanent repairs.

45. Add § 71.50–27 to read as follows:

§ 71.50–27 AHE Program options: divers or underwater ROV.

To conduct the underwater survey portion of your hull examination, you may use divers or an underwater ROV.

(a) If you use divers to conduct the underwater survey, you must:

(1) Locate the vessel so the divers can work safely under the vessel's keel and

around both sides. The water velocity must be safe for dive operations.

(2) Provide permanent hull markings or a temporary underwater grid system to identify the diver's location with respect to the hull, within one foot of accuracy.

(3) Take ultrasonic thickness gaugings at a minimum of 5 points on each plate, evenly spaced.

(4) Take plating thickness gaugings along transverse sections at the bow, stern, midship, and longitudinally along the wind and water strake. The divers must space such gaugings at a maximum of 3 feet apart.

(5) Ensure the third-party examiner observes the entire underwater examination process.

(6) Record the entire underwater survey with audio and video recording equipment and ensure that communications between divers and the third-party examiner are recorded.

(7) Use appropriate equipment, such as a clear box, if underwater visibility is poor, to provide the camera with a clear view of the hull.

(b) You may use an underwater ROV to conduct the underwater survey. The underwater ROV operator, survey process and equipment, quality assurance methods, and the content and format of the survey report must be accepted by the Commandant (G–MOC). If you choose this option, you must—

(1) Locate the vessel to ensure that the underwater ROV can operate effectively under the vessel's keel and around all sides; and

(2) Employ divers to examine any sections of the hull and appurtenances that the underwater ROV cannot access or is otherwise unable to evaluate.

46. Add § 71.50–29 to read as follows:

§ 71.50–29 Hull examination reports.

(a) If you use divers for the examination of the hull plating, you must provide the Officer in Charge, Marine Inspection with a written hull examination report. This report must include thickness gauging results, bearing clearances, a copy of the audio and video recordings and any other information that will help the OCMI evaluate your vessel for a drydock extension. The third-party examiner must sign the report and confirm the validity of its contents.

(b) If you use an underwater ROV for the examination of the hull plating, you must provide the Officer in Charge, Marine Inspection with a report in the format that is accepted by the Commandant (G–MOC), per § 71.50–27(b).

(c) The Officer in Charge, Marine Inspection will evaluate the hull examination report and will submit it along with his or her recommendations to the Commandant (G–MOC) for review. If approved and you use divers to examine the hull plating, you may receive a drydock extension of up to 30 months. If approved and you use an underwater ROV to examine the hull plating, you may receive a drydock extension of up to 60 months (5 years).

47. Add § 71.50–31 to read as follows:

§ 71.50–31 Continued participation in the AHE Program.

To continue to participate in the AHE Program, you must conduct your annual hull condition assessment and submit your hull condition assessment and preventive maintenance reports or checklists on an annual basis to the Officer in Charge, Marine Inspection. These reports or checklists must conform to the plans you submitted in your application under § 71.50–19, which the Officer in Charge, Marine Inspection approved.

PART 90—GENERAL PROVISIONS

48. Revise the authority citation for part 90 to read as follows:

Authority: 46 U.S.C. 3306, 3307, 3703; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

49. Redesignate §§ 90.10–1 and 90.10–2 as §§ 90.10–2 and 90.10–3, and add new § 90.10–1 to read as follows:

§ 90.10–1 Anniversary date.

The term *anniversary date* means the day and the month of each year, which corresponds to the date of expiration of the Certificate of Inspection.

PART 91—INSPECTION AND CERTIFICATION

50. Revise the authority citation for part 91 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307; E.O. 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 91.01–10 [Amended]

51. In § 91.01–10—

a. In the section heading, immediately following the word ''validity'' add the words ''for a Certificate of Inspection'';

b. In paragraph (a), remove the words ''periods of either 1 or 2 years'' and add, in their place, the words ''a period of 5 years''; and

c. In paragraph (c)(2), remove the words ''2 years'' and add, in their place, the words ''5 years''.

52. Revise § 91.25–5 to read as follows:

§ 91.25–5 Application for a Certificate of Inspection.

You must submit a written application for an inspection for certification to the cognizant Officer in Charge, Marine Inspection. To renew a Certificate of Inspection, you must submit an application at least 30 days before the expiration of the tank vessel's current certificate. You must use Form CG–3752, Application for Inspection of U.S. Vessel, and submit it to the Officer in Charge, Marine Inspection at, or nearest to, the port where the vessel is located. When renewing a Certificate of Inspection, you must schedule an inspection for certification within 3 months before the expiration date of the current Certificate of Inspection.

53. Revise § 91.25–20(a) to read as follows:

§ 91.25–20 Fire-extinguishing equipment.

(a) At each inspection for certification, periodic inspection and at other times necessary, the inspector will determine that all fire-extinguishing equipment is in suitable condition and may require any tests necessary to determine the condition of the equipment. The inspector will determine if the tests and inspections required by § 91.15–60 of this subchapter have been conducted. At each inspection for certification and periodic inspection, the inspector will check fire-extinguishing equipment with the following tests and inspections:

* * * * *

§ 91.25–25 [Amended]

54. In § 91.25–25(a), immediately following the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 91.25–38 [Amended]

55. In § 91.25–38, immediately following the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 91.25–40 [Amended]

56. In § 91.25–40, immediately following the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 91.25–45 [Amended]

57. In § 91.25–45, immediately following the words ''inspection for certification'' add the words ''and periodic inspection''.

Subpart 91.27, Consisting of §§ 91.27–1 Through 91.27–15—[Amended]

58. In subpart 91.27, in the subpart heading, remove the word ''Reinspection'' and add, in its place,

the words ''Annual and Periodic Inspections''.

59. Revise § 91.27–1 to read as follows:

§ 91.27–1 Annual and periodic inspections.

(a) *Annual inspection.* Your vessel must undergo an annual inspection within the 3 months before or after each anniversary date, except as required in paragraph (b) of this section.

(1) You must contact the cognizant Officer in Charge, Marine Inspection to schedule an inspection at a time and place which he or she approves. No written application is required.

(2) The scope of the annual inspection is the same as the inspection for certification as specified in § 91.25–10 but in less detail unless the cognizant marine inspector finds deficiencies or determines that a major change has occurred since the last inspection. If deficiencies are found or a major change to the vessel has occurred, the marine inspector will conduct an inspection more detailed in scope to ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the annual inspection, the marine inspector will endorse your current Certificate of Inspection.

(3) If the annual inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the Officer in Charge, Marine Inspection.

(4) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

(b) *Periodic inspection.* Your vessel must undergo a periodic inspection within 3 months before or after the second or third anniversary of the date of your vessel's Certificate of Inspection. This periodic inspection will take the place of an annual inspection.

(1) You must contact the cognizant Officer in Charge, Marine Inspection to schedule an inspection at a time and place which he or she approves. No written application is required.

(2) The scope of the periodic inspection is the same as that for the inspection for certification, as specified in § 91.25–10. The Officer in Charge, Marine Inspection will insure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the periodic inspection, the marine inspector will endorse your current Certificate of Inspection.

(3) If the periodic inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the Officer in Charge, Marine Inspection.

(4) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

60. Revise § 91.27–5 to read as follows:

§ 91.27–5 Certificate of Inspection: Conditions of validity.

To maintain a valid Certificate of Inspection, you must complete your annual and periodic inspections within the periods specified in § 91.27–1(a) and (b) and your Certificate of Inspection must be endorsed.

§ 91.27–10 [Removed]

61. Remove § 91.27–10.

62. Revise § 91.27–13 to read as follows:

§ 91.27–13 Alternative annual inspection for offshore supply vessels less than 400 gross tons in foreign ports.

(a) The owner or operator of an offshore supply vessel of less than 400 gross tons, except liftboats as defined in § 90.10–20 of this chapter, may request authorization to conduct an alternative annual inspection in place of the annual inspection described in § 91.27–1(a) of this chapter. You must submit your request to the Officer in Charge, Marine Inspection responsible for conducting inspections in the country in which the vessel is operating and will be examined. To qualify for the alternative annual inspection, you must meet the following requirements:

(1) The request for authorization must be in writing and received by the cognizant Officer in Charge, Marine Inspection before the end of the twelfth month of each COI anniversary year.

(2) The vessel is expected to be continuously employed outside of the United States during the 3 months before and after each anniversary date of the issuance of the COI.

(b) In determining whether to grant authorization for the alternative annual inspection, the Officer in Charge, Marine Inspection will consider the following:

(1) Information contained in previous inspection and drydock examination reports, including the Officer in Charge, Marine Inspection's recommendation for participation in the alternative midperiod examination program, and the alternative annual inspection program.

(2) The nature, number, and severity of any marine casualties or accidents, as defined in § 4.03–1 of this chapter, which the vessel has experienced in the last 3 years.

(3) The nature, number, and severity of any outstanding inspection requirements for the vessel.

(4) The owner or operator's history of compliance and cooperation in the alternative midperiod examination program and the alternative annual inspection program, which includes—

(i) The prompt correction of deficiencies;

(ii) The reliability of previously submitted alternative examination and annual inspection reports; and

(iii) The reliability of representations that the vessel under consideration will be, and other vessels previously examined under this section were, employed outside of the United States for the 3 month period before and after each anniversary date.

(c) If authorization is granted, the Officer in Charge, Marine Inspection must provide the applicant written authorization to proceed with the alternative annual inspection, including special instructions when appropriate.

(d) The following conditions must be met for the alternative annual inspection to be accepted by the Coast Guard in lieu of conducting an annual inspection in accordance with § 91.27–1(a) of this subpart.

(1) The alternative annual inspection must be conducted within 3 months before and after each anniversary date.

(2) The alternative annual inspection must be of the scope detailed in § 91.27–1(a) of this subpart and must be conducted by the vessel's master, operator, or a designated representative of the owner or operator.

(3) Upon completion of the alternative annual inspection, the person or persons conducting the inspection must prepare a comprehensive report describing the conditions found. This inspection report must contain sufficient detail to allow an evaluation to be made by the Officer in Charge, Marine Inspection to whom the report is submitted that the vessel is fit for the service and route specified on the certificate of inspection. The report must include reports and receipts documenting the servicing of lifesaving and fire protection equipment, and any photographs or sketches necessary to clarify unusual circumstances. Each person preparing the report must sign it and certify that the information contained therein is complete and accurate.

(4) Unless the vessel's master participated in the alternative annual

inspection and the preparation of the inspection report, the master must review the report for completeness and accuracy. The master must sign the report to indicate review and forward it to the vessel's owner or operator who requested authorization to conduct the inspection.

(5) The owner or operator of an offshore supply vessel inspected under this subpart must review and submit the report required by paragraph (d)(3) of this section to the Officer in Charge, Marine Inspection who authorized the owner or operator to conduct the alternative annual inspection. The inspection report must be received by the cognizant Officer in Charge, Marine Inspection before the first day of the fifth month following the anniversary date. The forwarding letter or endorsement must be certified and contain the following information—

(i) That the person or persons who conducted the inspection acted on behalf of the vessel's owner or operator;

(ii) That the inspection report was reviewed by the owner or operator;

(iii) That the discrepancies noted during the inspection have been corrected or will be corrected within a stated time frame; and

(iv) That the owner or operator has sufficient personal knowledge of conditions aboard the vessel at the time of the inspection or has made necessary inquiries to justify forming a belief that the inspection report is true and correct.

(e) The form of certification required under this subpart is as follows:

''I certify that the above is true and complete to the best of my knowledge and belief.''

(f) Deficiencies and hazards discovered during an alternative annual inspection conducted pursuant to this section must be corrected or eliminated, if practical, before the inspection report is submitted to the Officer in Charge, Marine Inspection in accordance with paragraph (d)(5) of this section. Deficiencies and hazards that are not corrected or eliminated by the time the inspection report is submitted must be listed in the report as ''outstanding.'' Upon receipt of an inspection report indicating outstanding deficiencies or hazards, the Officer in Charge, Marine Inspection will inform the owner or operator of the vessel in writing of the time period in which to correct or eliminate the deficiencies or hazards and the method for establishing that the corrections have been accomplished. Where a deficiency or hazard remains uncorrected or uneliminated after the expiration of the time specified for correction or elimination, the Officer in Charge, Marine Inspection will initiate appropriate enforcement measures.

(g) Upon receipt of the report required by paragraph (d)(3) of this section, the Officer in Charge, Marine Inspection must evaluate it and make the following determination:

(1) Whether the alternative annual inspection is accepted in lieu of the annual inspection required by § 91.27–1(a) of this subpart.

(2) Whether the vessel is in satisfactory condition.

(3) Whether the vessel continues to be reasonably fit for its intended service and route. The Officer in Charge, Marine Inspection may request any additional information needed to make the determinations required by this section. The Officer in Charge, Marine Inspection will inform the owner or operator in writing of the determinations required by this section.

(h) If the Officer in Charge, Marine Inspection determines, in accordance with paragraph (g) of this section, that the alternative annual inspection is not accepted in lieu of the annual inspection required by § 91.27–1(a) of this subpart, the vessel must be reinspected by the cognizant Officer in Charge, Marine Inspection as soon as practical.

(i) If the Officer in Charge, Marine Inspection determines, in accordance with paragraph (g) of this section, that the alternative annual inspection is accepted in lieu of the annual inspection required by § 91.27–1(a) of this subpart, the master must complete the applicable COI endorsement.

§ 91.60–1 [Amended]

63. In § 91.60–1, immediately following the words ''international voyage.'' add the words ''(See § 91.05–10 of this chapter.)''.

64. Revise § 91.60–15 to read as follows:

§ 91.60–15 Cargo Ship Safety Radio Certificate.

Every vessel equipped with a radio installation on an international voyage must have a Cargo Ship Safety Radio Certificate. Each radio installation must meet the requirements of the Federal Communication Commission and the International Convention for Safety of Life at Sea.

65–66. Revise § 91.60–35 to read as follows:

§ 91.60–35 Availability of Certificates.

The Convention certificates must be on board the vessel and readily available for examination at all times.

67. Revise § 91.60–40 to read as follows:

§ 91.60–40 Duration of Convention Certificates.

(a) The following certificates are valid for a period of not more than 60 months.

(1) A Cargo Ship Safety Construction Certificate.

(2) A Cargo Ship Safety Equipment Certificate.

(3) A Safety Management Certificate.

(4) A Cargo Ship Safety Radio Certificate.

(b) An Exemption certificate must not be valid for longer than the period of the certificate to which it refers.

(c) A Convention certificate may be withdrawn, revoked, or suspended at any time when it is determined that the vessel is no longer in compliance with applicable requirements. (See § 2.01–70 of this chapter for procedures governing appeals.)

PART 98—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR CERTAIN DANGEROUS CARGOES IN BULK

68. Revise the authority citation for part 98 to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3306, 3307, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 98.25–95 [Amended]

69. In § 98.25–95(a)(2), remove the words ''biennial inspection'' and add, in their place, the words, ''inspection for certification and periodic inspection''.

PART 107—INSPECTION AND CERTIFICATION

70. Revise the authority citation for part 107 to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3307; 46 U.S.C. 3316; 49 CFR 1.45, 1.46; § 107.05 also issued under the authority of 44 U.S.C. 3507.

71. In § 107.111, add, in alphabetical order, the definition for ''anniversary date'' to read as follows:

§ 107.111 Definitions.

* * * * *

Anniversary date means the day and the month of each year, which corresponds to the date of expiration of the Certificate of Inspection.

* * * * *

§ 107.201 [Amended]

72. In § 107.201, in paragraph (b) remove the word ''biennial'', capitalize the word ''inspection'' the first time it appears, and in paragraph (c) remove the word ''reinspections'' and add, in its place, the words ''annual and periodic inspections''.

73. Revise § 107.211(d) to read as follows:

§ 107.211 Original Certificate of Inspection.

* * * * *

(d) A Certificate of Inspection is valid for 5 years.

74. In § 107.215—

(a) Revise section heading;

(b) In paragraph (a), remove the words ''a biennial'' and add, in their place, the word ''an'';

(c) In paragraph (b), remove the words ''60 days'' and add, in their place, the words ''30 days'';

(d) In paragraph (c) remove the words ''biennial inspection'' and add, in their place, the words ''inspection for certification''; and

(e) Add new paragraph (d) to read as follows:

§ 107.215 Renewal of Certificate of Inspection.

* * * * *

(d) A Certificate of Inspection is valid for 5 years.

75. Revise § 107.269 to read as follows:

§ 107.269 Annual inspection.

(a) Your mobile offshore drilling unit (MODU) must undergo an annual inspection within the 3 months before or after each anniversary date, except as specified in § 107.270.

(b) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(c) The scope of the annual inspection is the same as the inspection for certification as specified in § 107.231, except § 107.231 (x) and (y), but in less detail unless the cognizant OCMI finds deficiencies or determines that a major change has occurred since the last inspection. If deficiencies are found or a major change to the MODU has occurred, the OCMI will conduct an inspection more detailed in scope to ensure that the MODU is in satisfactory condition and fit for the service for which it is intended. If your MODU passes the annual inspection, the OCMI will endorse your current Certificate of Inspection.

(d) If the annual inspection reveals deficiencies in your MODU's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(e) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

76. Add § 107.270 to read as follows:

§ 107.270 Periodic inspection.

(a) Your vessel must undergo a periodic inspection within 3 months before or after the second or third anniversary of the date of your vessel's Certificate of Inspection. This periodic inspection will take the place of an annual inspection.

(b) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(c) The scope of the periodic inspection is the same as that for the inspection for certification, as specified in § 107.231 except § 107.231 (x) and (y). The OCMI will insure that the MODU is in satisfactory condition and fit for the service for which it is intended. If your MODU passes the periodic inspection, the marine inspector will endorse your current Certificate of Inspection.

(d) If the periodic inspection reveals deficiencies in your MODU's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(e) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

77. In § 107.279, revise paragraphs (b), (c) and (d) to read as follows:

§ 107.279 Certificate of Inspection: Failure to meet requirements.

* * * * *

(b) Withhold renewal of the Certificate of Inspection until the MODU meets the requirements of § 107.231, except § 107.231 (x) and (y).

(c) Suspend a valid Certificate of Inspection after an annual or periodic inspection until the MODU meets the requirements of § 107.231, except § 107.231 (x) and (y).

(d) Revoke a valid Certificate of Inspection after an annual or periodic inspection if the unit operates without complying with Coast Guard orders to correct unlawful conditions.

78. Add § 107.283 to subpart B to read as follows:

§ 107.283 Certificate of Inspection: Conditions of validity.

To maintain a valid Certificate of Inspection, you must complete your annual and periodic inspections within the periods specified in §§ 107.269 and 107.270 and your Certificate of Inspection must be endorsed.

§ 107.405 [Amended]

79. In § 107.405(b), remove the words ''24 months'' and add, in their place, the words ''60 months''.

PART 110—GENERAL PROVISIONS

80. Revise the authority citation for part 110 to read as follows:

Authority: 33 U.S.C. 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p.277; 49 CFR 1.45, 1.46; § 110.01–2 also issued under 44 U.S.C. 3507.

81. Revise § 110.30–5 to read as follows:

§ 110.30–5 Inspection for certification.

Electric installations and electric equipment must be inspected at the inspection for certification and periodic inspection to determine mechanical and electrical condition and performance. Particular note must be made of circuits added or modified after the original issuance of the Certificate of Inspection.

PART 114—GENERAL PROVISIONS

82. Revise the authority citation for part 114 to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46. Sec. 114.900 also issued under 44 U.S.C. 3507.

83. In § 114.400(b), add, in alphabetical order, the definition for ''anniversary date'' to read as follows:

§ 114.400 Definition of terms used in this subchapter.

* * * * *

(b) * * *

Anniversary date means the day and the month of each year, which corresponds to the date of expiration of the Certificate of Inspection.

* * * * *

PART 115—INSPECTION AND CERTIFICATION

84. Revise the authority citation for part 115 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 115.105 [Amended]

85. In § 115.105(e), in the second sentence, remove the word ''periodic''.

86. Revise § 115.107 and its section heading to read as follows:

§ 115.107 Period of validity for a Certificate of Inspection.

(a) A Certificate of Inspection is valid for 1 year for vessels carrying more than 12 passengers on international voyages.

(b) A Certificate of Inspection is valid for 5 years for all other vessels.

(c) A Certificate of Inspection may be suspended and withdrawn or revoked

by the cognizant OCMI at any time for noncompliance with the requirements of this subchapter.

87. In § 115.404, redesignate existing text as paragraph (a) and add paragraph (b) to read as follows:

§ 115.404 Subsequent inspections for certification.

* * * * *

(b) You must submit your written application for renewal of a Certificate of Inspection to the OCMI at least 30 days prior to the expiration date of your current COI, as required in § 115.105.

88. Revise § 115.500 to read as follows:

§ 115.500 When required.

(a) Vessels carrying more than 12 passengers on international voyages must undergo an inspection for certification each year as specified in § 115.404.

(b) All other vessels must undergo an inspection for certification as specified in § 115.404 and an annual inspection as specified in paragraph(b)(1) of this section.

(1) *Annual inspection.* Your vessel must undergo an annual inspection within the 3 months before or after each anniversary date.

(i) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(ii) The scope of the annual inspection is the same as the inspection for certification, as specified in § 115.404 but in less detail unless the cognizant marine inspector finds deficiencies or determines that a major change has occurred since the last inspection. If deficiencies are found or a major change to the vessel has occurred, the marine inspector will conduct an inspection more detailed in scope to ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the annual inspection, the marine inspector will endorse your current Certificate of Inspection.

(iii) If the annual inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(iv) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

(2) [Reserved]

89. Revise § 115.502 to read as follows:

§ 115.502 Certificate of Inspection: Conditions of validity.

To maintain a valid Certificate of Inspection, you must complete your annual inspections within the periods specified in § 115.500 and your Certificate of Inspection must be endorsed.

§ 115.600 [Redesignated as § 115.605]

90. Redesignate § 115.600 as § 115.605 and add new § 115.600 to read as follows:

§ 115.600 Definitions relating to hull examinations.

As used in this part—

Drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings and appurtenances.

Internal structural examination means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo or fuel oil tanks.

Underwater survey means the examination of the vessel's underwater hull including all through-hull fittings and appurtenances, while the vessel is afloat.

91. In newly redesignated § 115.605—

a. Revise the section heading;

b. Revise paragraph (a);

c. Revise the first sentence of paragraph (b); and

d. Revise the introductory text of paragraph (c) to read as follows:

§ 115.605 Drydock examination, internal structural examination, and underwater survey intervals.

(a) The owner or managing operator shall make a vessel available for drydock examinations, internal structural examinations, and underwater surveys required by this section.

(b) If your vessel is operated on international voyages subject to SOLAS requirements, it must undergo a drydock examination once every 12 months unless it has been approved to undergo an underwater survey per § 115.615. * * *

(c) If your vessel is operated on other than international voyages and does not meet the conditions in paragraph (d) of this section, it must undergo a drydock and internal structural examination as follows unless it has been approved to undergo an underwater survey per § 115.615:

* * * * *

§ 115.610 [Amended]

92. In § 115.610, remove ''§ 115.600'' wherever it appears and add, in its place, ''§ 115.605''.

§§ 115.612, 115.630, and 115.670 [Redesignated as §§ 115.665, 115.670, and 115.675]

93. Redesignate §§ 115.612, 115.630, and 115.670 as §§ 115.665, 115.670, and 115.675, respectively.

94. Add § 115.615 to read as follows:

§ 115.615 Underwater Survey.

(a) The OCMI, may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) Less than 15 years of age;

(2) A steel or aluminum hulled vessel;

(3) Fitted with an effective hull protection system; and

(4) Described in § 115.605 (b) or (c).

(b) For vessels less than 15 years of age, you must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The means for taking shaft bearing clearances;

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of survey; and

(7) A description of the hull protection system.

(c) If your vessel is 15 years old or older, the Commandant (G–MOC), may approve an underwater survey instead of a drydock examination at alternating intervals. You must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a)(2) through (4) of this section;

(2) Your application includes the information in paragraphs (b)(1) through (7) of this section; and

(3) During the vessel's drydock examination, preceding the proposed underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After this drydock examination, the Officer in Charge, Marine Inspection

submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination results to the Commandant (G–MOC) for review.

95. Add § 115.620 to read as follows:

§ 115.620 Description of the Alternate Hull Examination Program for certain passenger vessels.

The Alternate Hull Examination (AHE) Program provides you with an alternative to drydock examination by allowing your vessel's hull to be examined while it remains afloat. This program has four steps: the application process, the preliminary examination, the pre-survey meeting, and the hull examination. Once you complete these steps, the Officer in Charge, Marine Inspection (OCMI) may recommend that the Commandant (G–MOC) extend the interval between your drydock examination dates (drydock extension). If divers are exclusively used for the underwater survey portion of the examination process, you may receive an extension of up to 30 months. If an underwater ROV is used, you may receive an extension of up to 60 months (5 years). At the end of this extension period, you may apply for additional drydock extensions under the AHE Program.

96. Add § 115.625 to read as follows:

§ 115.625 Eligibility requirements for the AHE Program for certain passenger vessels.

(a) Your vessel may be eligible for the AHE Program if—

(1) It is constructed of steel or aluminum;

(2) It has an effective hull protection system;

(3) It has operated exclusively in fresh water since its last drydock examination;

(4) It operates in rivers or protected lakes; and

(5) It operates exclusively in shallow water or within 0.5 nautical miles from shore.

(b) In addition to the requirements in paragraph (a), the OCMI will evaluate the following information when determining your vessel's eligibility for the AHE Program:

(1) The overall condition of the vessel, based on its inspection history.

(2) The vessel's history of hull casualties and hull-related deficiencies.

(3) The AHE Program application, as described in § 115.630.

97. Add § 115.630 to read as follows:

§ 115.630 The AHE Program application.

If your vessel meets the eligibility criteria in § 115.625, you may apply to the AHE Program. You must submit an application at least 90 days before the requested hull examination date to the OCMI who will oversee the survey. The application must include—

(a) The proposed time and place for conducting the hull examination;

(b) The name of the participating diving contractor or underwater remotely operated vehicle (ROV) company which must be accepted by the Commandant (G–MOC) under § 115.650;

(c) The name and qualifications of the third-party examiner, if applicable. This person must be familiar with the inspection procedures and his or her responsibilities under this program. The OCMI has the discretionary authority to accept or deny use of a particular third-party examiner;

(d) A signed statement from your vessel's master, chief engineer, or the person in charge describing the vessel's overall condition, level of maintenance, known or suspected damage, underwater body cleanliness, and the anticipated draft of the vessel at the time of the examination;

(e) Plans or drawings that illustrate the external details of the hull below the sheer strake;

(f) A detailed plan for conducting the hull examination in accordance with §§ 115.645 and 115.650, which must address all safety concerns related to the removal of sea valves during the inspection;

(g) A preventative maintenance plan for your vessel's hull, its related systems and equipment; and

(h) A plan for the annual hull condition assessment which must include, at a minimum—

(1) An evaluation of your vessel's underwater hull including all through-hull fittings and appurtenances; and

(2) The ultrasonic test results of the vessel's hull, focused on areas that may be at high risk due to corrosion.

98. Add § 115.635 to read as follows:

§ 115.635 Preliminary examination requirements.

(a) If you use divers to examine the underwater hull plating, you must arrange to have a preliminary examination conducted by a third-party examiner, with the assistance of qualified divers. The purpose of the preliminary examination is to assess the overall condition of the vessel's hull and identify any specific concerns to be addressed during the underwater hull examination.

(b) If you use an underwater ROV to examine your vessel's hull plating, a preliminary examination and the participation of a third-party examiner will not be necessary.

99. Add § 115.640 to read as follows:

§ 115.640 Pre-Survey meeting.

(a) You must conduct a pre-survey meeting to discuss the details of the AHE procedure with the OCMI. If you use divers to examine the underwater hull plating, the third-party examiner must attend the meeting and you must present the results of the preliminary examination. If you use an underwater ROV to examine the vessel's hull plating, then the ROV operator must attend the pre-survey meeting and address the underwater ROV's capabilities and limitations related to your vessel's hull design and configuration.

(b) A vessel owner or operator must request this meeting in writing at least 30 days in advance of the proposed examination date.

100. Add § 115.645 to read as follows:

§ 115.645 AHE Procedure.

(a) To complete the underwater survey you must—

(1) Perform a general examination of the underwater hull plating and a detailed examination of all hull welds, propellers, tailshafts, rudders, and other hull appurtenances;

(2) Measure rudder and tailshaft bearing clearances and examine all sea chests;

(3) Remove and inspect all sea valves in the presence of a marine inspector;

(4) Remove all passengers from the vessel when the sea valves are being examined, if required by the OCMI;

(5) Allow access to all internal areas of the hull for examination; and

(6) Meet the requirements in § 115.650.

(b) A marine inspector may examine any other areas deemed necessary by the OCMI.

(c) The OCMI may require you to drydock the vessel or otherwise take it out of service if the AHE uncovers potential problems to further assess the extent of the damage and to effect permanent repairs.

101. Add § 115.650 to read as follows:

§ 115.650 AHE Program options: Divers or underwater ROV.

To complete your underwater survey, you may use divers or an underwater ROV.

(a) If you use divers to conduct the underwater survey, you must—

(1) Locate the vessel so the divers can work safely under the vessel's keel and around both sides. The water velocity must be safe for dive operations;

(2) Provide permanent hull markings or a temporary underwater grid system to identify the diver's location with

respect to the hull, within one foot of accuracy;

(3) Take ultrasonic thickness gaugings at a minimum of 5 points on each plate, evenly spaced;

(4) Take a representative number of plating thickness gaugings along transverse sections at the bow, stern, midship, and longitudinally along the wind and water strake. The divers must space such gaugings at a minimum of 3 feet apart;

(5) Ensure the third-party examiner observes the entire underwater examination process;

(6) Record the entire underwater survey with audio and video recording equipment and ensure that communications between divers and the third-party examiner are recorded; and

(7) Use appropriate equipment, such as a clear box, if underwater visibility is poor, to provide the camera with a clear view of the hull.

(b) You may use an underwater ROV to conduct the underwater survey. The underwater ROV operator, survey process and equipment, quality assurance methods, and the content and format of the survey report must be accepted by the Commandant (G–MOC). If you choose this option, you must—

(1) Locate the vessel to ensure that the underwater ROV can operate effectively under the vessel's keel and around both sides; and

(2) Employ divers to examine any sections of the hull and appurtenances that the underwater ROV cannot access or is otherwise unable to evaluate.

102. Add § 115.655 to read as follows:

§ 115.655 Hull examination reports.

(a) If you use divers for the examination of the hull plating, you must provide the OCMI with a written hull examination report. This report must include thickness gauging results, bearing clearances, a copy of the audio and video recordings and any other information that will help the OCMI evaluate your vessel for a drydock extension. The third-party examiner must sign the report and confirm the validity of its contents.

(b) If you use an underwater ROV for the examination of the hull plating, you must provide the OCMI with a report in a format that is acceptable to the Commandant (G–MOC), per § 115.650(b).

(c) The Officer in Charge, Marine Inspection will evaluate the hull examination report and will submit it along with his or her recommendations to the Commandant (G–MOC) for review. If approved and you use divers to examine the hull plating, you will receive a drydock extension of up to 30 months. If approved and you use an underwater ROV to examine the hull plating, you will receive a drydock extension of up to 60 months (5 years).

103. Add § 115.660 to read as follows:

§ 115.660 Continued participation in the AHE Program.

To continue to participate in the AHE Program, you must conduct your annual hull condition assessment and submit your hull condition assessment and preventive maintenance reports or checklists on an annual basis to the Officer in Charge, Marine Inspection. These reports or checklists must conform to the plans that you submitted in your application under § 115.630, which the OCMI approved.

§ 115.665 [Amended]

104. In newly redesignated § 115.665, in paragraph (a), remove ''§ 115.600'' and add, in its place, ''§ 115.605''; and in paragraph (c), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, an underwater survey,''.

§ 115.675 [Amended]

105. In newly redesignated § 115.675, remove ''§ 115.600'' and add, in its place, ''§ 115.605''.

§ 115.812 [Amended]

106. § 115.812(a), remove the words ''; except that, they must be inspected once every 3 years instead of at the intervals in § 61.10–5(a), (b), and (d) of this chapter''.

PART 125—GENERAL

107. The authority citation for part 125 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3307; 49 U.S.C. App. 1804; 49 CFR 1.46.

§ 125.160 [Amended]

108. In § 125.160, add, in alphabetical order, the definition of ''anniversary date'' to read as follows:

§ 125.160 Definitions.

* * * * *

Anniversary date means the day and the month of each year, which corresponds to the date of expiration of the Certificate of Inspection.

* * * * *

PART 126—INSPECTION AND CERTIFICATION

109. Revise the authority citation for part 126 to read as follows:

Authority: 46 U.S.C. 3205, 3306, 3307; 33 U.S.C. 1321 (j); E.O. 11735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 126.250 [Amended]

110. In § 126.250, in the section heading, immediately following the word ''validity'' add the words ''for a Certificate of Inspection''; and in paragraph (a), remove the number ''2'' and add, in its place, the number ''5''.

111. Revise § 126.420 to read as follows:

§ 126.420 Application for Certificate of Inspection.

You must submit a written application for an inspection for certification to the cognizant OCMI. To renew a Certificate of Inspection, you must submit an application at least 30 days before the expiration of the tank vessel's current certificate. You must use Form CG–3752, Application for Inspection of U.S. Vessel, and submit it to the OCMI at, or nearest to, the port where the vessel is located. When renewing a Certificate of Inspection, you must schedule an inspection for certification within 3 months before the expiration date of the current Certificate of Inspection.

112.–115. Revise subpart E to read as follows:

Subpart E—Annual, Periodic, and Alternative Annual Inspections

Sec.
126.510 Annual and periodic inspections.
126.520 Certificate of Inspection: Conditions of validity.
126.530 Alternative annual inspection for offshore supply vessels less than 400 gross tons in foreign ports.

Subpart E—Annual, Periodic, and Alternative Annual Inspections

§ 126.510 Annual and periodic inspections.

(a) *Annual inspection.* Your vessel must undergo an annual inspection within 3 months before or after each anniversary date, except as required in paragraph (b) of this section.

(1) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(2) The scope of the annual inspection is the same as the inspection for certification as specified in § 126.430, but in less detail unless the cognizant marine inspector finds deficiencies or determines that a major change has occurred since the last inspection. If deficiencies are found or a major change to the vessel has occurred, the marine inspector will conduct an inspection more detailed in scope to ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the

annual inspection, the marine inspector will endorse your current Certificate of Inspection.

(3) If the annual inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(4) Nothing in this subpart limits the marine inspector from making such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

(b) *Periodic inspection*. Your vessel must undergo a periodic inspection within 3 months before or after the second or third anniversary of the date of your vessel's Certificate of Inspection. This periodic inspection will take the place of an annual inspection.

(1) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(2) The scope of the periodic inspection is the same as that for the inspection for certification, as specified in § 126.430. The OCMI will insure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the periodic inspection, the marine inspector will endorse your current Certificate of Inspection.

(3) If the periodic inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(4) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

§ 126.520 Certificate of Inspection: Conditions of validity.

To maintain a valid Certificate of Inspection, you must complete your annual and periodic inspections within the periods specified in § 126.510 (a) and (b) and your Certificate of Inspection must be endorsed.

§ 126.530 Alternative annual inspection for offshore supply vessels less than 400 gross tons in foreign ports.

(a) The owner, master or operator of an OSV of less than 400 gross tons may request authorization to conduct an alternative annual inspection in place of the annual inspection described in § 126.510(a) of this subpart. The request must go to the cognizant OCMI assigned responsibility for inspections in the country in which the vessel is operating and will be examined. To qualify for the alternative annual examination, the vessel must meet the following requirements:

(1) The request must be in writing and be received by the OCMI not later than the anniversary date.

(2) The vessel is likely to be continuously employed outside of the United States during the 3 months before and after each anniversary date.

(b) In determining whether to authorize the alternative annual inspection, the OCMI considers the following:

(1) Information contained in previous examination reports on inspection and drydock, including the recommendation of the then cognizant OCMI for participation in the alternative midperiod program and alternative annual examination.

(2) The nature, number, and severity of marine casualties or accidents, as defined in § 4.03–1 of this chapter, involving the vessel in the 3 years preceding the request.

(3) The nature, number, and gravity of any outstanding inspection requirements for the vessel.

(4) The owner's or operator's history of compliance and cooperation in such alternative midperiod examinations and annual inspections, including:

(i) The prompt correction of deficiencies.

(ii) The reliability of previously submitted reports on such alternative midperiod examinations and annual inspections.

(iii) The reliability of representations that the vessel would be, and was, employed outside of the United States during the 3 months before and after each anniversary date.

(c) This OCMI provides the applicant with written authorization, if any, to proceed with the alternative annual inspection, including, when appropriate, special instructions.

(d) The following conditions must be met for the alternative annual inspection to be accepted instead of the annual inspection required by § 126.510 of this subpart:

(1) The alternative annual inspection must occur within the 3 months before or after each anniversary date.

(2) The alternative annual inspection must be of the scope detailed by § 126.510(a) of this subchapter and must be conducted by the master, owner or operator of the vessel, or by a designated representative of the owner or operator.

(3) Upon completion of the alternative annual inspection, the person or persons making the examination must prepare a comprehensive report describing the conditions found. This report must contain sufficient detail to let the OCMI determine whether the vessel is fit for the service and route specified on the Certificate of Inspection. This report must include all reports and receipts documenting the servicing of lifesaving equipment and any photographs or sketches necessary to clarify unusual circumstances. Each person preparing this report must sign it and certify that the information contained therein is complete and accurate.

(4) Unless the master of the vessel participated in the alternative annual inspection and the preparation of the comprehensive report, the master will review the report for completeness and accuracy. The master must sign the report to indicate his or her review and validation and must forward it to the owner or operator of the vessel.

(5) The owner or operator of a vessel examined under this section must review and submit the comprehensive report, required by paragraph (d)(3) of this section, to the OCMI. The report must reach the OCMI before the first day of the fifth month following the anniversary date. The forwarding letter or endorsement must be certified to be true and must contain the following information:

(i) That the person or persons who made the alternative annual inspection acted on behalf of the vessel's owner or operator.

(ii) That the report was reviewed by the owner or operator.

(iii) That the discrepancies noted during the reinspection have been corrected, or will be within a stated time.

(iv) That the owner or operator has sufficient personal knowledge of conditions aboard the vessel at the time of the reinspection, or has conducted inquires necessary to justify forming a belief that the report is complete and accurate.

(e) The form of certification required under this section, for the alternative annual inspection, is as follows:

> I certify that to the best of my knowledge and belief the information contained in the report is complete and accurate.

(f) Deficiencies and hazards discovered during the alternative annual inspection conducted pursuant to this section must be corrected or eliminated, if practical, before the examination report is submitted to the OCMI in accordance with paragraph (d)(5) of this section. Deficiencies and hazards that are not corrected or eliminated by the time the examination report is submitted must be listed in the report as ''outstanding.'' Upon receipt of an examination report indicating outstanding deficiencies or hazards, the

OCMI must inform the owner or operator in writing of the time period within which to correct or eliminate the deficiencies or hazards and the method for establishing that the corrections have been accomplished. Where a deficiency or hazard remains uncorrected or uneliminated after the expiration of the time specified for correction or elimination, the Officer in Charge, Marine Inspection must initiate appropriate enforcement measures.

(g) Upon receipt of the report, the OCMI will evaluate it and determine the following:

(1) Whether the cognizant OCMI accepts the alternative annual inspection instead of the annual inspection required by § 126.510(a) of this subpart.

(2) Whether the vessel is in satisfactory condition.

(3) Whether the vessel continues to be reasonably fit for its intended service and route.

(h) The OCMI may require further information necessary for the determinations required by this section. The OCMI will inform the owner or operator in writing of these determinations.

(i) If the OCMI, in compliance with paragraph (g) of this section, does not accept the alternative annual inspection instead of the annual inspection required by § 126.510(a) of this subpart, he or she will require reinspection of the vessel as soon as practicable. He or she will inform the vessel owner or operator in writing that the alternative examination is not acceptable and that a reinspection is necessary. The owner, master, or operator must make the vessel available for the reinspection at a time and place agreeable to this OCMI.

(j) If the OCMI determines, in accordance with paragraph (g) of this section, that the alternative annual inspection is accepted in lieu of the annual inspection required by § 126.510(a) of this subpart, the master must complete the applicable COI endorsement.

PART 132—FIRE-PROTECTION EQUIPMENT

116. Revise the authority citation for part 132 to read as follows:

Authority: 46 U.S.C. 3306, 3307; 449 CFR 1.46.

§ 132.350 [Amended]

117. In § 132.350(a)(2), after the words ''inspection for certification'' add the words ''and periodic inspection''.

PART 133—LIFESAVING SYSTEMS

118. Revise the authority citation for part 133 to read as follows:

Authority: 46 U.S.C. 3306, 3307; 449 CFR 1.46.

§ 133.45 [Amended]

119. In § 133.45(b), after the words ''inspection for renewal of certification'' add the words ''and periodic inspection''.

PART 134—ADDED PROVISIONS FOR LIFTBOATS

120. Revise the authority citation for part 134 to read as follows:

Authority: 46 U.S.C. 3306, 3307; 49 CFR 1.46.

§ 134.120 [Amended]

121. In § 134.120, after the words ''inspection for certification'' add the words ''and periodic inspection''.

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

122. Revise the authority citation for part 167 to read as follows:

Authority: 46 U.S.C. 3306, 3307, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

123. In § 167.15–20, designate existing text as paragraph (a) and add paragraph (b) to read as follows:

§ 167.15–20 Inspections of nautical school ships.

* * * * *

(b) To renew a Certificate of Inspection, you must submit an application at least 30 days before the expiration of the vessel's current certificate.

124. Add § 167.15–27(c) to read as follows:

§ 167.15–27 Definitions relating to hull examinations.

* * * * *

(c) *Underwater survey* means the examination of the vessel's underwater hull including all through-hull fittings and appurtenances, while the vessel is afloat.

125. In § 167.15–30, revise the section heading and paragraphs (a) (1) and (2) to read as follows:

§ 167.15–30 Drydock examination, internal structural examination, and underwater survey intervals.

(a) * * *

(1) If your vessel operates in saltwater, it must undergo two drydock examinations and two internal structural examinations within any 5-year period unless it has been approved to undergo an underwater survey under § 167.15–33. No more than 3 years may elapse between any two examinations.

(2) If your vessel operates in fresh water at least 6 months of the 12-month period since your last drydocking, it must undergo a dry dock and internal structural examination at intervals not to exceed 5 years unless it has been approved to undergo an underwater survey under § 167.15–33.

* * * * *

126. Add § 167.15–33 to read as follows:

§ 167.15–33 Underwater survey.

(a) The OCMI, may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) Less than 15 years of age;

(2) A steel or aluminum hulled vessel;

(3) Fitted with an effective hull protection system; and

(4) Described in § 167.15–30(a)(1) or (2).

(b) For vessels less than 15 years of age, you must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The means for taking shaft bearing clearances;

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of survey; and

(7) A description of the hull protection system.

(c) If your vessel is 15 years old or older, the Commandant (G–MOC), may approve an underwater survey instead of a drydock examination at alternating intervals. You must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a) (2) through (4) of this section;

(2) Your application includes the information in paragraphs (b) (1) through (7) of this section; and

(3) During the vessel's drydock examination, preceding the proposed underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After this drydock examination, the Officer in Charge, Marine Inspection submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination results to the Commandant (G–MOC) for review.

§ 167.15–35 [Amended]

127. In § 167.15–35, in paragraph(b), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, underwater survey,''; and, in paragraph (c), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, underwater survey,''.

PART 169—SAILING SCHOOL VESSELS

128. Revise the authority citation for part 169 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3307, 6101; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.45, 1.46; § 169.117 also issued under the authority of 44 U.S.C. 3507.

129. In § 169.107, redesignate paragraphs (a) through (y) as paragraphs (b) through (z), respectively, and add new paragraph (a) to read as follows:

§ 169.107 Definitions.

(a) *Anniversary date* means the day and the month of each year, which corresponds to the date of expiration of the Certificate of Inspection.

* * * * *

130. In § 169.205, revise section heading and paragraph (d) to read as follows:

§ 169.205 Obtaining or renewing a Certificate of Inspection.

* * * * *

(d) You must submit a written application for an inspection for certification to the cognizant Officer in Charge, Marine Inspection. To renew a Certificate of Inspection, you must submit an application at least 30 days before the expiration of the vessel's current certificate. Applications are available at any U.S. Coast Guard Marine Safety Office or Marine Inspection Office. When renewing a Certificate of Inspection, you must schedule an inspection for certification within 3 months before the expiration date of the current Certificate of Inspection.

* * * * *

131. In § 169.207, revise section heading and paragraph (a) to read as follows:

§ 169.207 Period of validity for a Certificate of Inspection.

(a) A Certificate of Inspection is valid for 5 years.

* * * * *

132. Revise § 169.225 to read as follows:

§ 169.225 Annual inspection.

(a) Your vessel must undergo an annual inspection within 3 months before or after each anniversary date, except as specified in § 169.226.

(b) You must contact the cognizant Officer in Charge, Marine Inspection to schedule an inspection at a time and place which he or she approves. No written application is required.

(c) The scope of the annual inspection is the same as the inspection for certification as specified in § 169.222 but in less detail unless the cognizant marine inspector finds deficiencies or determines that a major change has occurred since the last inspection. If deficiencies are found or a major change to the vessel has occurred, the marine inspector will conduct an inspection more detailed in scope to ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the annual inspection, the marine inspector will endorse your current Certificate of Inspection.

(d) If the annual inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the Officer in Charge, Marine Inspection.

(e) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

133. Add § 169.226 to read as follows:

§ 169.226 Periodic inspection.

(a) Your vessel must undergo a periodic inspection within 3 months before or after the second or third anniversary of the date of your vessel's Certificate of Inspection. This periodic inspection will take the place of an annual inspection.

(b) You must contact the cognizant Officer in Charge, Marine Inspection to schedule an inspection at a time and place which he or she approves. No written application is required.

(c) The scope of the periodic inspection is the same as that for the inspection for certification, as specified in § 169.222. The Officer in Charge, Marine Inspection will insure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the periodic inspection, the marine inspector will endorse your current Certificate of Inspection.

(d) If the periodic inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the Officer in Charge, Marine Inspection.

(e) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

134. Revise § 169.227 to read as follows:

§ 169.227 Certificate of Inspection: Conditions of validity.

To maintain a valid Certificate of Inspection, you must complete your annual and periodic inspections within the periods specified in §§ 169.225 and 169.226 respectively and your Certificate of Inspection must be endorsed.

135. In § 169.229, revise the section heading and paragraphs (a)(1) and (2) to read as follows:

§ 169.229 Drydock examination, internal structural examination, and underwater survey intervals.

(a) * * *

(1) If your vessel operates in saltwater, it must undergo two drydock examinations and two internal structural examinations within any 5-year period unless it has been approved to undergo an underwater survey under § 167.15–33. No more than 3 years may elapse between any two examinations.

(2) If your vessel operates in fresh water at least 6 months of the 12-month period since your last drydocking, it must undergo a dry dock and internal structural examination at intervals not to exceed 5 years unless it has been approved to undergo an underwater survey under § 167.15–33.

* * * * *

136. Add § 169.230 to read as follows:

§ 169.230 Underwater survey.

(a) The Officer in Charge, Marine Inspection, on a case-by-case basis, may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) A steel or aluminum hulled vessel;

(2) Less than 15 years of age;

(3) Fitted with an effective hull protection system; and

(4) Listed in § 169.229(a)(1) or (2).

(b) For vessels less than 15 years of age, you must submit an application for

an underwater survey to the Officer in Charge, Marine Inspection at least 90 days before your vessel's next required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The means for taking shaft bearing clearances;

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of survey; and

(7) A description of the hull protection system.

(c) If your vessel is 15 years old or older, the Commandant (G–MOC), on a case-by-case basis, may approve an underwater survey instead of a drydock examination at alternating intervals. You must submit an application for an underwater survey to the Officer in Charge, Marine Inspection at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a)(2) through (4) of this section;

(2) Your application includes the information in paragraphs (b)(1) through (7) of this section; and

(3) During the vessel's drydock examination, preceding the proposed underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After this drydock examination, the Officer in Charge, Marine Inspection submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination results to the Commandant (G–MOC) for review.

137. Add § 169.231(c) to read as follows:

§ 169.231 Definitions relating to hull examinations.

* * * * *

(c) *Underwater survey* means the examination of the vessel's underwater hull including all through-hull fittings and appurtenances, while the vessel is afloat.

§ 169.233 [Amended]

138. In § 169.233, in paragraph(b), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, underwater survey,''; and, in paragraph (c), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, underwater survey,''.

§ 169.239 [Amended]

139. In § 169.239, after the words ''inspection for certification'' add the words ''and periodic inspection''.

140. Revise § 169.241(a) introductory text to read as follows:

§ 169.241 Machinery.

(a) At each inspection for certification and periodic inspection, the marine inspector will examine and test the following items to the extent necessary, to determine that they are in proper operating condition and fit for the service for which they are intended:

* * * * *

141. Revise the introductory text in § 169.243 to read as follows:

§ 169.243 Electrical.

At each inspection for certification and periodic inspection, the marine inspector will examine and test the following items to the extent necessary, to determine that they are in proper operating condition, in safe electrical condition, and fit for the service for which they are intended:

* * * * *

142. Revise the introductory text in § 169.245 to read as follows:

§ 169.245 Lifesaving equipment.

At each inspection for certification and periodic inspection the following tests and inspections of lifesaving equipment will be conducted:

* * * * *

§ 169.247 [Amended]

143. In § 169.247(a), after the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 169.251 [Amended]

144. In § 169.251, after the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 169.253 [Amended]

145. In § 169.253(a), after the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 169.255 [Amended]

146. In § 169.255, after the words ''inspection for certification'' remove the words ''and reinspection'' and, in their place, add the words '', periodic inspection, and annual inspection''.

§ 169.257 [Amended]

147. In § 169.257(a) and (b), after the words ''inspection for certification'' remove the word ''reinspection'' and, in its place, add the words ''periodic inspection, annual inspection,''.

PART 175—GENERAL PROVISIONS

148. Revise the authority citation for part 175 to read as follows:

Authority: 46 U.S.C. 2103, 3205, 3306, 3307, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; 175.900 also issued under authority of 44 U.S.C. 3507.

149. In § 175.400, add, in alphabetical order, the definition for ''anniversary date'' to read as follows:

§ 175.400 Definition of terms used in this subchapter.

* * * * *

Anniversary date means the day and the month of each year, which corresponds to the date of expiration of the Certificate of Inspection.

* * * * *

PART 176—INSPECTION AND CERTIFICATION

150. Revise the authority citation for part 176 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

151. Revise § 176.107 to read as follows:

§ 176.107 Period of validity for a Certificate of Inspection.

(a) A Certificate of Inspection is valid for 1 year for vessels carrying more than 12 passengers on international voyages.

(b) A Certificate of Inspection is valid for 5 years for all other vessels.

(c) A Certificate of Inspection may be suspended and withdrawn or revoked by the cognizant OCMI at any time for noncompliance with the requirements of this subchapter.

152. In § 176.404, redesignate the existing text as paragraph (a) and add paragraph (b) to read as follows:

§ 176.404 Subsequent inspections for certification.

* * * * *

(b) You must submit your written application for renewal of a Certificate of Inspection to the OCMI at least 30 days prior to the expiration date of the Certificate of Inspection, as required in § 176.105 of this part.

153. Revise § 176.500 to read as follows:

§ 176.500 When required.

(a) Vessels carrying more than 12 passengers on international voyages must undergo an inspection for certification each year as specified in § 176.404.

(b) All other vessels must undergo an inspection for certification as specified in § 176.404 undergo an annual inspection as specified in paragraph (b)(1) of this section.

(1) *Annual inspection.* Your vessel must undergo an annual inspection within the 3 months before or after each anniversary date.

(i) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(ii) The scope of the annual inspection is the same as the inspection for certification but in less detail unless the cognizant marine inspector finds deficiencies or determines that a major change has occurred since the last inspection. If deficiencies are found or a major change to the vessel has occurred, the marine inspector will conduct an inspection more detailed in scope to ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the annual inspection, the marine inspector will endorse your current Certificate of Inspection.

(iii) If the annual inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(iv) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

(2) [Reserved]

154. Revise § 176.502 to read as follows:

§ 176.502 Certificate of Inspection: Conditions of validity.

To maintain a valid Certificate of Inspection, you must complete your annual inspection within the periods specified in § 176.500(b)(1) and your Certificate of Inspection must be endorsed.

§ 176.600 [Redesignated as § 176.605]

155. Redesignate § 176.600 as § 176.605 and add new § 176.600 to read as follows:

§ 176.600 Definitions relating to hull examinations.

As used in this part—

Drydock examination means hauling out a vessel or placing a vessel in a drydock or slipway for an examination of all accessible parts of the vessel's underwater body and all through-hull fittings and appurtenances.

Internal structural examination means an examination of the vessel while afloat or in drydock and consists of a complete examination of the vessel's main strength members, including the major internal framing, the hull plating, voids, and ballast tanks, but not including cargo or fuel oil tanks.

Underwater survey means the examination of the vessel's underwater hull including all through-hull fittings and appurtenances, while the vessel is afloat.

156. In newly redesignated § 176.605—

a. Revise the section heading;

b. Revise paragraph (a);

c. Revise the first sentence of paragraph (b); and

d. Revise the introductory text of paragraph (c) to read as follows:

§ 176.605 Drydock examination, internal structural examination, and underwater survey intervals.

(a) The owner or managing operator shall make a vessel available for drydock examinations, internal structural examinations, and underwater surveys required by this section.

(b) If your vessel is operated on international voyages subject to SOLAS requirements, it must undergo a drydock examination once every 12 months unless it has been approved to undergo an underwater survey per § 176.615. * * *

(c) If your vessel is not operated on international voyages and does not meet the conditions in paragraph (d) of this section, it must undergo a drydock and internal structural examination as follows unless it has been approved to undergo an underwater survey per § 176.615:

* * * * *

§ 176.610 [Amended]

157. In § 176.610, remove ''§ 176.600'' wherever it appears and add, in its place, ''§ 176.605''.

§§ 176.612, 176.630, and 176.670 [Redesignated as §§ 176.665, 176.670, and 176.675]

158. Redesignate §§ 176.612, 176.630, and 176.670 as §§ 176.665, 176.670, and 176.675, respectively.

159. Add § 176.615 to read as follows:

§ 176.615 Underwater Survey.

(a) The OCMI, may approve an underwater survey instead of a drydock examination at alternating intervals if your vessel is—

(1) Less than 15 years of age;

(2) A steel or aluminum hulled vessel;

(3) Fitted with an effective hull protection system; and

(4) Described in § 176.605 (b) or (c).

(b) For vessels less than 15 years of age, you must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. The application must include—

(1) The procedure for carrying out the underwater survey;

(2) The time and place of the underwater survey;

(3) The method used to accurately determine the diver's or remotely operated vehicle's (ROV) location relative to the hull;

(4) The means for examining all through-hull fittings and appurtenances;

(5) The means for taking shaft bearing clearances;

(6) The condition of the vessel, including the anticipated draft of the vessel at the time of survey; and

(7) A description of the hull protection system.

(c) If your vessel is 15 years old or older, the Commandant (G–MOC), may approve an underwater survey instead of a drydock examination at alternating intervals. You must submit an application for an underwater survey to the OCMI at least 90 days before your vessel's next required drydock examination. You may be allowed this option if—

(1) The vessel is qualified under paragraphs (a)(2) through (4) of this section;

(2) Your application includes the information in paragraphs (b) (1) through (7) of this section; and

(3) During the vessel's drydock examination, preceding the proposed underwater survey, a complete set of hull gaugings was taken and they indicated that the vessel was free from appreciable hull deterioration.

(d) After this drydock examination, the Officer in Charge, Marine Inspection submits a recommendation for future underwater surveys, the results of the hull gauging, and the results of the Coast Guards' drydock examination results to the Commandant (G–MOC) for review.

160. Add § 176.620 to read as follows:

§ 176.620 Description of the Alternate Hull Examination Program for certain passenger vessels.

The Alternate Hull Examination (AHE) Program provides you with an alternative to drydock examination by allowing your vessel's hull to be

examined while it remains afloat. This program has four steps: the application process, the preliminary examination, the pre-survey meeting, and the hull examination. Once you complete these steps, the OCMI may recommend that the Commandant (G–MOC) extend the interval between your drydock examination dates (drydock extension). If divers are exclusively used for the underwater survey portion of the examination process, you may receive an extension of up to 30 months. If an underwater ROV is used, you may receive an extension of up to 60 months (5 years). At the end of this extension period, you may apply for additional drydock extensions under the AHE Program.

161. Add § 176.625 to read as follows:

§ 176.625 Eligibility requirements for the AHE Program for certain passenger vessels.

(a) Your vessel may be eligible for the AHE Program if—

(1) It is constructed of steel or aluminum;

(2) It has an effective hull protection system;

(3) It has operated exclusively in fresh water since its last drydock examination;

(4) It operates in rivers or protected lakes; and

(5) It operates exclusively in shallow water or within 0.5 nautical miles from shore.

(b) In addition to the requirements in paragraph (a), the OCMI will evaluate the following information when determining your vessel's eligibility for the AHE Program:

(1) The overall condition of the vessel, based on its inspection history.

(2) The vessel's history of hull casualties and hull-related deficiencies.

(3) The AHE Program application, as described in § 176.630.

162. Add § 176.630 to read as follows:

§ 176.630 The AHE Program application.

If your vessel meets the eligibility criteria in § 176.625, you may apply to the AHE Program. You must submit an application at least 90 days before the requested hull examination date to the OCMI who will oversee the survey. The application must include—

(a) The proposed time and place for conducting the hull examination;

(b) The name of the participating diving contractor or underwater ROV company which must be accepted by the Commandant (G–MOC) under § 176.650;

(c) The name and qualifications of the third-party examiner, if applicable. This person must be familiar with the inspection procedures and his or her responsibilities under this program. The OCMI has the discretionary authority to accept or deny use of a particular third-party examiner;

(d) A signed statement from your vessel's master, chief engineer, or the person in charge describing the vessel's overall condition, level of maintenance, known or suspected damage, underwater body cleanliness, and the anticipated draft of the vessel at the time of the examination;

(e) Plans or drawings that illustrate the external details of the hull below the sheer strake;

(f) A detailed plan for conducting the hull examination in accordance with §§ 176.645 and 176.650, which must address all safety concerns related to the removal of sea valves during the inspection;

(g) A preventative maintenance plan for your vessel's hull, its related systems and equipment; and

(h) A plan for the annual hull condition assessment which must include, at a minimum—

(1) An evaluation of your vessel's underwater hull including all through-hull fittings and appurtenances; and

(2) The ultrasonic test results of the vessel's hull, focused on areas that may be at high risk due to corrosion.

163. Add § 176.635 to read as follows:

§ 176.635 Preliminary examination requirements.

(a) If you use divers to examine the underwater hull plating, you must arrange to have a preliminary examination conducted by a third-party examiner, with the assistance of qualified divers. The purpose of the preliminary examination is to assess the overall condition of the vessel's hull and identify any specific concerns to be addressed during the underwater hull examination.

(b) If you use an underwater ROV to examine your vessel's hull plating, a preliminary examination and the participation of a third-party examiner will not be necessary.

164. Add § 176.640 to read as follows:

§ 176.640 Pre-Survey meeting.

(a) You must conduct a pre-survey meeting to discuss the details of the AHE procedure with the OCMI. If you use divers to examine the underwater hull plating, the third-party examiner must attend the meeting and you must present the results of the preliminary examination. If you use an underwater ROV to examine the vessel's hull plating, then the ROV operator must attend the pre-survey meeting and address the underwater ROV's capabilities and limitations related to your vessel's hull design and configuration.

(b) A vessel owner or operator must request this meeting in writing at least 30 days in advance of the proposed examination date.

165. Add § 176.645 to read as follows:

§ 176.645 AHE Procedure.

(a) To complete the underwater survey you must—

(1) Perform a general examination of the underwater hull plating and a detailed examination of all hull welds, propellers, tailshafts, rudders, and other hull appurtenances;

(2) Measure rudder and tailshaft bearing clearances and examine all sea chests;

(3) Remove and inspect all sea valves in the presence of a marine inspector;

(4) Remove all passengers from the vessel when the sea valves are being examined, if required by the OCMI;

(5) Allow access to all internal areas of the hull for examination; and

(6) Meet the requirements in § 176.650.

(b) A marine inspector may examine any other areas deemed necessary by the OCMI.

(c) The OCMI may require you to drydock the vessel or otherwise take it out of service if the AHE uncovers potential problems to further assess the extent of the damage and to effect permanent repairs.

166. Add § 176.650 to read as follows:

§ 176.650 AHE Program options: Divers or underwater ROV.

To complete your underwater survey, you may use divers or an underwater ROV.

(a) If you use divers to conduct the underwater survey, you must—

(1) Locate the vessel so the divers can work safely under the vessel's keel and around both sides. The water velocity must be safe for dive operations;

(2) Provide permanent hull markings or a temporary underwater grid system to identify the diver's location with respect to the hull, within one foot of accuracy;

(3) Take ultrasonic thickness gaugings at a minimum of 5 points on each plate, evenly spaced;

(4) Take a representative number of plating thickness gaugings along transverse sections at the bow, stern, midship, and longitudinally along the wind and water strake. The divers must space such gaugings at a minimum of 3 feet apart;

(5) Ensure the third-party examiner observes the entire underwater examination process;

(6) Record the entire underwater survey with audio and video recording equipment and ensure that communications between divers and the third-party examiner are recorded; and

(7) Use appropriate equipment, such as a clear box, if underwater visibility is poor, to provide the camera with a clear view of the hull.

(b) You may use an underwater ROV to conduct the underwater survey. The underwater ROV operator, survey process and equipment, quality assurance methods, and the content and format of the survey report must be accepted by the Commandant (G–MOC). If you choose this option, you must—

(1) Locate the vessel to ensure that the underwater ROV can operate effectively under the vessel's keel and around both sides; and

(2) Employ divers to examine any sections of the hull and appurtenances that the underwater ROV cannot access or is otherwise unable to evaluate.

167. Add § 176.655 to read as follows:

§ 176.655 Hull examination reports.

(a) If you use divers for the examination of the hull plating, you must provide the OCMI with a written hull examination report. This report must include thickness gauging results, bearing clearances, a copy of the audio and video recordings and any other information that will help the OCMI evaluate your vessel for a drydock extension. The third-party examiner must sign the report and confirm the validity of its contents.

(b) If you use an underwater ROV for the examination of the hull plating, you must provide the OCMI with a report in a format that is acceptable to the Commandant (G–MOC), per § 176.650(b).

(c) The OCMI will evaluate the hull examination report and will submit it along with his or her recommendations to the Commandant (G–MOC) for review. If approved and you use divers to examine the hull plating, you will receive a drydock extension of up to 30 months. If approved and you use an underwater ROV to examine the hull plating, you will receive a drydock extension of up to 60 months (5 years).

168. Add § 176.660 to read as follows:

§ 176.660 Continued participation in the AHE Program.

To continue to participate in the AHE Program, you must conduct your annual hull condition assessment and submit your hull condition assessment and preventive maintenance reports or checklists on an annual basis to the OCMI. These reports or checklists must conform to the plans that you submitted in your application under § 176.630, which the OCMI approved.

§ 176.665 [Amended]

169. In newly redesignated § 176.665, in paragraph (a), remove ''§ 176.600'' and add, in its place, ''§ 176.605''; and, in paragraph (c), remove the words ''a drydock examination or internal structural examination'' and add, in their place, the words ''a drydock examination, internal structural examination, an underwater survey,''.

§ 176.675 [Amended]

170. In newly redesignated § 176.675, remove ''§ 176.600'' and add, in its place, ''§ 176.605''.

§ 176.812 [Amended]

171. § 176.812, in paragraph (a), remove the words ''; except that, they must be inspected once every 3 years instead of at the intervals in § 61.10–5(a), (b), and (d) of this chapter''; and, in paragraph (b), remove the number ''§ 61.10'' and add, in its place, the number ''§ 61.05''.

PART 188—GENERAL PROVISIONS

172. Revise the authority citation for part 188 to read as follows:

Authority: 46 U.S.C. 2113, 3306, 3307; 49 U.S.C. App. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 188.10 [Redesignated as § 188.10–2]

173. Redesignate § 188.10–1 as § 188.10–2 and add new § 188.10–1 to read as follows:

§ 188.10–1 Anniversary date.

The term *anniversary date* means the day and the month of each year, which corresponds to the date of expiration of the Certificate of Inspection.

PART 189—INSPECTION AND CERTIFICATION

174. Revise the authority citation for part 189 to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306, 3307; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 189.01–10 [Amended]

175. In § 189.01–10—

a. In the section heading, immediately following the word ''validity'' add the words ''for a Certificate of Inspection'';

b. In paragraph (a), remove the first sentence and add, in its place, the sentence ''A Certificate of Inspection is valid for 5 years.''; and

c. In paragraph (c)(2), remove the words ''in no case to exceed 2 years'' and add, in their place, the words ''not to exceed 5 years''.

176. Revise § 189.25–5 to read as follows:

§ 189.25–5 Application for a Certificate of Inspection.

You must submit a written application for an inspection for certification to the cognizant OCMI. To renew a Certificate of Inspection, you must submit an application at least 30 days before the expiration of the tank vessel's current certificate. You must use Form CG–3752, Application for Inspection of U.S. Vessel, and submit it to the OCMI at, or nearest to, the port where the vessel is located. When renewing a Certificate of Inspection, you must schedule an inspection for certification within 3 months before the expiration date of the current Certificate of Inspection.

§ 189.25–20 [Amended]

177. In § 189.25–20(a), in the first sentence, remove the words ''inspection for certification and'' add, in their place, the words ''inspection for certification, periodic inspection, and''; and, in the last sentence, immediately following the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 189.25–25 [Amended]

178. In § 189.25–25(a), after the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 189.25–38 [Amended]

179. In § 189.25–38, after the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 189.25–40 [Amended]

180. In § 189.25–40, after the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 189.25–45 [Amended]

181. In § 189.25–45(a), after the words ''inspection for certification'' add the words ''and periodic inspection''.

§ 189.25–47 [Amended]

182. In § 189.25–47(a) and (b), after the words ''inspection for certification.'' add the words ''and periodic inspection.''.

183.–187. Subpart 189.27 is revised to read as follows:

Subpart 189.27—Annual and Periodic Inspections

§ 189.27–1 Annual inspection.

Sec.

189.27–1 Annual inspection.
189.27–5 Periodic inspection.
189–27–10 Certificate of Inspection: Conditions of validity.

189.60–15 Cargo Ship Safety Radio Certificate.

Subpart 189.27—Annual and Periodic Inspections

§ 189.27–1 Annual inspection.

(a) Your vessel must undergo an annual inspection within the 3 months before or after each anniversary date, except as specified in § 189.27–5.

(b) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(c) The scope of the annual inspection is the same as the inspection for certification, as specified in § 189.25–10, but in less detail unless the cognizant marine inspector finds deficiencies or determines that a major change has occurred since the last inspection. If deficiencies are found or a major change to the vessel has occurred, the marine inspector will conduct an inspection more detailed in scope to ensure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the annual inspection, the marine inspector will endorse your current Certificate of Inspection.

(d) If the annual inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(e) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

§ 189.27–5 Periodic inspection.

(a) Your vessel must undergo a periodic inspection within 3 months before or after the second or third anniversary of the date of your vessel's Certificate of Inspection. This periodic inspection will take the place of an annual inspection.

(b) You must contact the cognizant OCMI to schedule an inspection at a time and place which he or she approves. No written application is required.

(c) The scope of the periodic inspection is the same as that for the inspection for certification, as specified in § 189.25–10. The OCMI will insure that the vessel is in satisfactory condition and fit for the service for which it is intended. If your vessel passes the periodic inspection, the marine inspector will endorse your current Certificate of Inspection.

(d) If the periodic inspection reveals deficiencies in your vessel's maintenance, you must make any or all repairs or improvements within the time period specified by the OCMI.

(e) Nothing in this subpart limits the marine inspector from conducting such tests or inspections he or she deems necessary to be assured of the vessel's seaworthiness.

§ 189.27–10 Certificate of Inspection: Conditions of validity.

To maintain a valid Certificate of Inspection, you must complete your annual and periodic inspections within the periods specified in §§ 189.27–1 and 189.27–5 respectively, and your Certificate of Inspection must be endorsed.

§ 189.60–15 Cargo Ship Safety Radio Certificate.

Every vessel equipped with a radio installation on an international voyage must have a Cargo Ship Safety Radio Certificate. Each radio installation must meet the requirements of the Federal Communication Commission and the International Convention for Safety of Life at Sea.

§ 189.60–20 [Removed]

188.–189. Revise § 189.60–35 to read as follows:

§ 189.60–35 Availability of Certificates.

The Convention certificates must be on board the vessel and readily available for examination at all times.

190. Revise § 189.60–40 to read as follows:

§ 189.60–40 Duration of Convention certificates.

(a) The following certificates are valid for a period of not more than 60 months (5 years).

(1) A Cargo Ship Safety Construction Certificate.

(2) A Cargo Ship Safety Equipment Certificate.

(3) A Safety Management Certificate.

(4) A Cargo Ship Safety Radio Certificate.

(b) An Exemption certificate must not be valid for longer than the period of the certificate to which it refers.

(c) A Convention certificate may be withdrawn, revoked, or suspended at any time when it is determined that the vessel is no longer in compliance with applicable requirements. (See § 2.01–70 of this chapter for procedures governing appeals.)

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

191. Revise the authority citation for part 195 to read as follows:

Authority: 46 U.S.C. 2113, 3306, 3307; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

192. Revise § 195.11–15 (a) to read as follows:

§ 195.11–15 Plan approval and inspection.

(a) Accommodation, power and chemical stores vans are subject to normal plan submission procedures of subpart 189.55 and to initial construction inspection. They must be inspected at each inspection for certification and periodic inspection.

* * * * *

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

193. Revise the authority citation for part 199 to read as follows:

Authority: 46 U.S.C. 3306, 3307, 3703; 46 CFR 1.46.

§ 199.45 [Amended]

194. In § 199.45(b), immediately following the words ''renewal of certification'' add the words ''and periodic inspection''.

Dated: November 1, 1999.

R. C. North,

Rear Admiral, U.S. Coast Guard Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–29024 Filed 11–12–99; 8:45 am]

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Monday
November 15, 1999

Part IV

Department of Labor

Pension and Welfare Benefits Administration

Department of Health and Human Services

Office of Child Support Enforcement

29 CFR Part 2590
45 CFR Part 303
National Medical Support Notice; Proposed Rules

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

RIN 1210–AA72

29 CFR Part 2590

National Medical Support Notice

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed rule that, upon adoption, would implement an amendment to section 609(a) of Title I of the Employee Retirement Income Security Act (ERISA) made by section 401 of the Child Support Performance and Incentive Act of 1998 (CSPIA), Public Law 105–200. CSPIA requires the Secretaries of Labor and Health and Human Services to jointly promulgate a National Medical Support Notice to be issued by State agencies as a means of enforcing the health care coverage provisions in a child support order, and to be treated by plan administrators of group health plans as a qualified medical child support order under section 609(a) of ERISA. This proposed rule would affect group health plans, participants in group health plans, noncustodial children of such participants, and State agencies that administer child support enforcement programs.

DATES: Written comments on these proposed rules must be received by the Department of Labor on or before February 14, 2000.

ADDRESSES: Interested persons are invited to submit written comments (preferably three copies) concerning the proposed rules to: Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–5669, Washington, DC 20210. Attention: National Medical Support Notice. All submissions will be open to public inspection and copying in the Public Disclosure Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–5638, Washington, DC, from 8 a.m. to 4:30 p.m., E.S.T.

FOR FURTHER INFORMATION CONTACT: David Lurie or Susan Rees, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, (202) 219–8671 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

1. Background

Section 609(a) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), provides that each group health plan, as defined in ERISA section 607(1), shall provide benefits in accordance with the applicable requirements of any ''qualified medical child support order'' (QMCSO). A QMCSO is a medical child support order issued under State law that creates or recognizes the existence of an ''alternate recipient's'' right to receive benefits for which a participant or beneficiary is eligible under a group health plan, and which satisfies certain additional requirements contained in section 609(a). An ''alternate recipient'' is any child of a participant (including a child adopted by or placed for adoption with a participant in a group health plan) who is recognized under a medical child support order as having a right to enrollment under a group health plan with respect to such participant. Upon receipt, the administrator of a group health plan is required to determine, within a reasonable period of time, whether a medical child support order received by the plan is qualified, and to administer benefits in accordance with the applicable terms of each order that is qualified. Section 514(b)(7) also provides that ERISA preemption of State laws does not apply to QMCSOs and provisions of State law described in section 1908 of the Social Security Act (SSA) to the extent that they apply to a QMCSO.[1]

2. The Child Support Performance and Incentive Act

Based on concerns raised both by State agencies that enforce the programs under Title IV–D of the SSA (known as the Child Support Enforcement Program, which is administered by the Federal Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS)) and by sponsors and administrators of group health plans concerning difficulties in establishing medical child support orders that are qualified, Congress enacted section 401 of the Child Support Performance and Incentive Act of 1998 (CSPIA) to amend both ERISA and the SSA. CSPIA requires State agencies to enforce the medical child support obligations of noncustodial parents by issuing to their employers a National Medical Support Notice (Notice), and requires plan administrators, upon receipt of the Notice from the employer, to accept an appropriately completed Notice that also satisfies the requirements of ERISA section 609(a) as a QMCSO.

In addition to complying with ERISA requirements and the requirements of Title IV–D of the SSA, the Notice must include a separate and easily severable employer withholding notice informing the employer of the noncustodial parent of applicable provisions of State and Federal law relating to any necessary withholding of employee contributions that may be required by the plan to extend coverage to any child named in the Notice. The changes made by section 401 of CSPIA, and that would be implemented by the proposed regulations, will simplify the issuance and processing of medical child support orders, provide standardized communication between State agencies, employers, and plan administrators, and create a uniform and streamlined process for enforcement of medical child support to ensure that all children receive the health care coverage for which they are eligible and to which they are entitled.

Section 401(c) of CSPIA amended section 466(a)(19) of the SSA to require States to enact laws requiring the use of the Notice to enforce medical child support obligations of parents.[2] Pursuant to such laws, State IV–D agencies will be required to use the Notice to notify the employer of the noncustodial parent that a State court or

[1] Section 1908 of the SSA conditions State eligibility for Medicaid matching funds on the enactment of certain specified laws relating to medical child support. Under section 1908 of the SSA, for instance, States must enact laws under which insurers (including group health plans) may not deny enrollment of a child under the health coverage of the child's parent on the ground that the child is born out of wedlock, not claimed as a dependent on the parent's tax return, or not in residence with the parent or in the insurer's service area. Section 1908 also sets out rules for States to require of employers and insurers when a parent is ordered by a court or administrative agency to provide health coverage for a child and the parent is eligible for health coverage from that insurer or employer, including a provision which permits the noncustodial parent or the State agency to apply for available coverage for the child.

[2] This requirement is effective for each State on or after the later of October 1, 2001, or the effective date of laws enacted by the legislature of such State implementing the amendments to the SSA made by section 401 of CSPIA, but in no event later than the first day of the first calender quarter beginning after the close of the first regular session of the State legislature that begins after October 1, 2001. In the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature. Some States, therefore, may not have laws mandating the use of the Notice until 2003. Until that time, such States may continue to use medical child support orders other than the Notice. Plan administrators are advised that such orders are ''medical child support orders'' as defined in ERISA section 609(a)(2)(B), that the procedures mandated by section ERISA 609(a)(5)(A) and (B) remain applicable with respect to such orders, and that if such orders satisfy section ERISA 609(a)(3) and (4), they are QMCSOs.

administrative agency has issued a child support order providing for health care coverage. The employer will then be required to separate and retain the part of the Notice directing the employer to withhold employee contributions and transfer, within 20 business days of the date of the Notice, the remaining part of the Notice to the appropriate group health plan.

Section 401(d) of CSPIA added a new subparagraph (C) to section 609(a)(5) of ERISA. Section 609(a)(5)(C) provides that if a plan which is maintained by the employer of a noncustodial parent of a child, or to which such employer contributes, receives an appropriately completed Notice in the case of such child, and the Notice satisfies the conditions of paragraphs (3) and (4) of section 609(a), the Notice shall be deemed to be a QMCSO in the case of such child. In such a case, the plan administrator, within 40 business days after the date of the Notice, shall notify the State agency issuing the Notice with respect to such child whether coverage is available under the terms of the plan, and, if so, whether the child is covered under the plan and either the effective date of coverage or, if necessary, any steps to be taken by the custodial parent to effectuate such coverage, and provide to the custodial parent a description of the coverage available and any forms or documents necessary to effectuate such coverage.

3. The Medical Child Support Working Group

Section 401(a) of CSPIA mandated that the Secretaries jointly establish a Medical Child Support Working Group (the Working Group) whose purpose is to identify the impediments to the effective enforcement of medical support by State IV–D agencies and to submit a report to the Secretaries containing recommendations for appropriate measures to address such impediments. CSPIA specifically directs the Working Group, among other things, to make recommendations based on assessments of the form and content of the Notice. The Working Group is composed of 30 members, who represent the DOL and HHS, directors of State IV–D and Medicaid agencies, employers (including owners of small businesses) and their trade or industry representatives and certified human resource and payroll professionals, administrators and sponsors of group health plans (as defined in section 607(1) of ERISA), children potentially eligible for medical support, State medical child support programs, and organizations representing State child support programs.

In the interest of developing a proposed Notice that best addresses the needs and concerns of the affected parties, DOL and HHS solicited comments and suggestions regarding the Notice from the Working Group at its public meetings of April 13, and May 12 and 13, 1999. Comments from the Working Group proved very helpful in the development of the Notice that is proposed herein. In an effort to ensure that the statutorily mandated Notice facilitates, rather than complicates, State agency efforts to secure health care coverage for children, consistent with congressional intent, and taking into account the views of the Working Group, the Department has determined it appropriate to promulgate the Notice as a proposed rulemaking, rather than as an interim regulation.[3] We believe that this more closely comports with congressional intent to permit the affected parties, including the Working Group, to comment on the Notice before it becomes effective.

4. The Proposed National Medical Support Notice

A. General

The Departments of Labor and HHS are jointly promulgating the Notice. The Notice has two parts, Part A, the ''Employer Withholding Notice,'' and Part B, the ''Medical Support Notice to Plan Administrator.'' Also being published in the **Federal Register** today is a parallel proposed regulation issued by OCSE, under sections 452(f) and 466(a)(19) of the SSA, 42 U.S.C. 652(f) and 666(a)(19), as amended by section 401 of the CSPIA. That proposed regulation, in addition to promulgating the Notice, provides guidance to States on implementing the laws required by such sections. These laws describe the duties and obligations of employers and State agencies with respect to the Notice.

B. Employer Withholding Notice

As described in the OCSE proposed regulation, a State agency will issue the two part Notice to an employer of an employee who is a noncustodial parent obligated by a child support order to provide medical support for his or her children, which employer may maintain or contribute to a group health plan. Part A, the ''Employer Withholding Notice'' identifies the obligated employee as well as the child(ren) to whom the order applies. The Instructions to Employer inform the employer of its obligations (i) to transfer Part B to the administrator of each group health plan providing coverage for which the children may be eligible within 20 business days of the date of the Notice, (ii) to withhold from the earnings of the employee/obligor any participant contributions required under the group health plan for such coverage, and (iii) to transmit those amounts to the plan. Part A also includes an Employer Response, which the Employer would use to notify the State agency if the employer does not maintain or contribute to a group health plan that offers family health care coverage or that the employee is among a class of employees (*e.g.*, part-time or non-union) that is not eligible for family health coverage under any plan maintained by the employer or to which the employer contributes, if the individual is not employed by the employer, or if Federal or State withholding limitations or prioritization rules prevent the withholding from the employee's income of the amount required to obtain coverage for the children under the terms of the plan (participant contribution).

The Instructions in Part A also notifies the employer (i) of Federal and State limitations on withholding, (ii) of the obligation to comply with any applicable withholding prioritization established by the State of the employee's principal place of employment and to notify the State agency which issued the Notice of the employee's termination of employment, (iii) of the duration of the withholding obligation, (iv) of sanctions that the employer might be subject to for failure to withhold as required by the Notice, and (v) that the employee is liable for any employee contributions required by the terms of the plan.

[3] Section 401(b)(5) of CSPIA provides for the issuance of interim regulations within ten months of enactment of CSPIA, and final regulations within one year of the issuance of the interim regulations. As stated above, under section 401(a)(5) of CSPIA, the Working Group is required to make recommendations, within eighteen months of the enactment of CSPIA, on the form and content of the Notice as issued under interim regulations. CSPIA also provides that State agencies will not be required to use the Notice prior to October of 2001.

The initial meetings of the Working Group have led the Departments to a more complete appreciation of the complexity of the issues involved in the development of the Notice. In the interest of developing a more useful Notice, the Agencies decided to obtain additional input from the Working Group, which necessitated taking additional time in promulgating these proposed regulations. In addition, it was decided that the final regulations would benefit from public comments, in addition to those from the Working Group. Furthermore, concerns were raised as to the applicability of the Notice if it was promulgated pursuant to interim regulations, subject to alteration in the final regulations. Accordingly, in order to encourage greater public participation in this rulemaking and reduce the possibility for confusion, the Departments decided to issue these regulations in proposed form.

As described below, Part B of the Notice and its Instructions were developed to insure that the Notice would comply with the ERISA QMCSO requirements, and to provide guidance to the administrator of a group health plan that receives Part B. Part B was also developed to comply with the requirements placed on group health plans under State laws described in SSA section 1908, and to accommodate the requirements for State agencies to use automated processing of medical child support orders.

C. Notice to Plan Administrator

Part B of the proposed Notice, the ''Medical Support Notice to Plan Administrator,'' includes the same information as is contained in Part A, and a Plan Administrator Response to be returned to the State Agency, along with Instructions to Plan Administrator (Instructions) regarding the administrator's responsibilities in processing Part B.

Part B notifies the administrator of the group health plan in which the named employee is enrolled or eligible for enrollment that the employee is obligated by a court or administrative child support order to provide medical support coverage for the named alternate recipient(s). Part B provides the information necessary for the plan administrator to determine, as required by section 609(a)(5)(A), whether the notice is a QMCSO under section 609(a) of ERISA, and to enroll the alternate recipient(s) as dependent(s) in the group health plan. Part B also includes a Plan Administrator Response that the plan administrator will use to inform the State IV–D agency whether the Notice constitutes a QMCSO and, if it does, to notify the State agency either that the alternate recipient is enrolled in the coverage offered by the plan, or, if there is more than one option available under the plan, inform the State agency of the options from which to elect coverage.

Receipt by a plan administrator of Part B of a Notice that identifies (i) an issuing State agency (the Issuing Agency), (ii) a participant who is enrolled or eligible to enroll in the plan, and (iii) one or more alternate recipients with respect to the participant is considered receipt of a medical child support order as defined in ERISA section 609(a)(2)(B). Accordingly, the plan administrator would be subject to the statutory requirements of ERISA section 609(a), including section 609(a)(5)(A), which requires the administrator to notify the participant and alternate recipient(s) of the receipt of the Notice and the plan's procedures for determining if a medical child support order is a QMCSO. The Notice is to be treated as an application by the Issuing Agency for health coverage for the alternate recipient(s), to the extent such application is required by the plan and has not been undertaken by the participant.

ERISA section 609(a)(5)(C) provides that if a plan receives an appropriately completed Notice and the Notice satisfies the conditions of paragraphs (3) and (4) of section 609(a), the Notice shall be deemed to be a QMCSO. It is the view of the Department that a Notice is appropriately completed, within the meaning of section 609(a)(5)(C), if Part B of the Notice (i) identifies an employee of an employer, enrolled or eligible for enrollment in a group health plan sponsored by an employer or to which an employer contributes, who is a noncustodial parent obligated by a State court or administrative order to provide medical child support for one or more alternate recipients named in the Notice, and (ii) indicates the type of health care coverage to be provided to the alternate recipient(s). The Notice satisfies ERISA section 609(a)(3) by including the necessary information in Part B, by expressly requiring the plan to treat an alternate recipient as a dependent under the terms of the plan and by specifying that coverage may only end for the alternate recipient when similarly situated dependents are no longer eligible for coverage under the terms of the plan, or upon the occurrence of certain specified events.[4] (Certain other events that may lead to a loss of coverage of the alternate recipient (e.g., the death of the participant) may be ''qualifying events'' as specified in ERISA section 603, thereby triggering the continuation coverage (also known as COBRA) provisions of ERISA.) The Notice satisfies ERISA section 609(a)(4) because it states that the alternate recipient(s) must be provided only the coverage that the plan provides, or be enrolled in an option provided under the plan, except to the extent necessary to meet the requirements of a State law described in SSA section 1908. Accordingly, if Part B is appropriately completed as specified above, and in the Instructions, the Notice is deemed to be a QMCSO.

The Instructions also inform the plan administrator that coverage may not be denied because the alternate recipient was born out of wedlock, is not claimed as a dependent on the participant's Federal income tax return, or does not reside with the participant or in the plan's service area. The Instructions further provide that all enrollments are to be made without regard to open season restrictions.[5] Further, if Part B is appropriately completed, the plan administrator must treat the Notice as QMCSO, even if there is a waiting period to enroll in the plan or there are additional steps to be taken to include the alternate recipient(s) in the group health plan. Even if coverage does not begin immediately, the plan administrator must provide the notifications and information required by section 609(a)(5) and the Notice to the alternate recipient(s), custodial parent, and Issuing Agency.

ERISA section 609(a)(5)(A)(ii) requires that a plan administrator determine whether a medical child support order is qualified within a reasonable period of time after receipt of the order and notify the participant and each alternate recipient named in the order of such determination. Section 609(a)(5)(C)(ii) requires the plan administrator, within 40 days of the date of an Notice, to notify the Issuing Agency whether coverage is available under the terms of the plan, whether the alternate recipient(s) is/are covered under the plan, and either the effective date of coverage or, if necessary, any additional steps to be taken by the custodial parent (or by a State or local official who has been substituted for the address of the alternate recipient) to effectuate the coverage, and provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate the coverage. In order to align these requirements, the Instructions provide that the plan administrator shall, within 40 business days of the date of the Notice, or sooner if reasonable, provide the required notifications and information to the Issuing Agency, the participant/non-custodial parent and the alternate recipient/child. Although what constitutes a reasonable period will depend on the specific circumstances of each medical child support order, it is the view of the Department that, given the uniform nature of Part B of the Notice, a plan administrator should

[4] Section 1908(a)(2)(C) and (3)(C) of the SSA provide that, when a child is provided health care coverage by a parent's insurer pursuant to a court or administrative order, the child may only be disenrolled if the employer or insurer is provided satisfactory evidence that the order is no longer in effect, the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment, or the employer eliminates family health coverage for all of its employees.

[5] This requirement is derived from SSA section 1908(a)(2) and (3).

require less time to review Part B than a medical child support order that is not based on such uniform form and content.

The Plan Administrator Response is to be completed by the plan administrator and returned to the Issuing Agency. If the plan administrator determines that a Notice received by the plan is not qualified, he or she completes part 1 of the Response and identifies the specific reason(s) why the Notice is not qualified. If the administrator determines that the Notice is a QMCSO, he or she completes part 2 of the Response, indicating whether there is only one type of coverage provided by the plan (*e.g.*, indemnity coverage) and that the alternate recipient(s) is/are covered, or if there is more than one type of coverage available (*e.g.*, indemnity coverage and a health maintenance organization), the administrator must identify each available option. If there is more than one type of coverage available under the plan, the Issuing Agency will select the option in which to enroll the alternate recipient(s) and return the Response to the plan administrator. Upon completion of the enrollment information, the plan administrator transfers the applicable information on the Plan Administrator Response to the employer for a determination that the necessary participant contributions are available.

The Department is proposing to make the regulation as adopted effective October 1, 2001. This is the earliest date on which States will be required, under section 401(c)(3) of CSPIA, to use the Notice to enforce the health care coverage provisions of a child support order.

Economic Analysis Under Executive Order 12866

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Department must determine whether a regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB). Section 3(f) of the Executive Order defines a ''significant regulatory action'' as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this proposed regulation would raise novel legal or policy issues arising out of legal mandates. Therefore, this proposed regulation is ''significant'' and subject to review under section 3(f)(4) of the Executive Order. Consistent with the Executive Order, the Department has undertaken an assessment of the costs and benefits of this regulatory action. The analysis is detailed below, following a description of the medical child support process and its relationship to this proposed regulation.

Overview

The medical child support process requires that a State child support enforcement agency (State agency) issue a notice to the employer of a non-custodial parent, who is subject to a child support order issued by a court or administrative agency, informing the employer of the parent's obligation to provide health care coverage for the child(ren). The employer must then determine whether family health care coverage is available for which the dependent child(ren) may be eligible, and if so, the employer must notify the administrator of the plan. The plan administrator is then required to determine whether the dependent child(ren) are eligible for coverage under a plan. If eligible, the plan administrator is required to enroll the dependent child(ren) in an appropriate plan.

Even with a medical child support process in place, State agencies and administrators of group health plans have experienced difficulties in obtaining medical coverage for children of non-custodial parents due to problems encountered in establishing what constitutes a qualified medical child support order (QMCSO). In response to these and other problems affecting the child support process, the Child Support Performance and Incentive Act of 1998 (CSPIA) was enacted.

As required by CSPIA, the Department and HHS are jointly promulgating a proposed uniform National Medical Support Notice (Notice) to be used throughout the child support process by State agencies, employers, and plan administrators. This Notice is intended to simplify the issuance and processing of medical child support orders, provide standardized communication between State agencies, employers, and plan administrators, and create a uniform process for the enforcement of medical child support.

The Notice has two parts, Part A, the ''Employer Withholding Notice,'' and Part B, the ''Medical Support Notice to Plan Administrator.'' The proposed regulation establishes procedures that would be followed once the Notice has been transmitted by the State to the employer and by the employer to the plan administrator. Thus, the proposed regulation provides guidance to plan administrators for meeting Part B requirements. Part B incorporates the provisions of the CSPIA as it pertains to ERISA. Specifically, Part B would implement section 609(a)(5)(C) of Title I of ERISA, which was added by section 401(d) of CSPIA to provide specific rules for plan administrators to follow upon receipt from an employer of Part B.

For purposes of this economic analysis, the Department estimated the benefits and costs of the proposed regulation relative to the costs of processing child support orders in the current environment. The benefits and costs of the rights conferred by the statute and current practices for processing medical child support orders are included in the baseline and are therefore not considered benefits or costs of the proposed regulation. These include the rights for enrollment in a plan, as well as increased health care coverage and the attendant increases in claims costs faced by employee benefit plans. The Department is not aware of any analysis presently available that seeks to quantify the costs and benefits of the medical support order provisions of CSPIA, and is therefore not presenting estimates of the costs and benefits of the statute in conjunction with evaluating the incremental cost and benefits of discretion exercised in the regulation.

The Department's analysis indicates that the benefits of the proposed regulation substantially exceed the costs. There are two types of economic effects of the regulation: (1) The more general and primarily indirect societal welfare gains associated with facilitating access to health care for dependent children, and (2) the direct administrative benefits and costs associated with implementing standardized Notices. The new procedures will promote timeliness in processing medical child support orders and accuracy in identifying a medical child support order as a QMCSO, thus

providing dependent children greater access to health care on a regular and timely basis. The new procedures will also increase efficiency and decrease per Notice administrative costs that arise when a fragmented, non-standardized notice system is replaced by a standardized Notice system.

The Department's analysis relies on the basic assumption that plans incur a baseline cost to process notices in the current manner. Each notice is assumed to be unique, requiring individualized effort. The first standardized Notice received by a plan administrator is expected to require the same time as the unique notices previously received. In addition, however, it is assumed that many plan administrators will invest in establishing new procedures upon receiving the first Notice in anticipation of offsetting this start-up cost in future savings associated with standardization. The processing time for each second and subsequent Notice is assumed to be significantly reduced. Plan administrators who do not have a reasonable expectation of receiving subsequent Notices are assumed to simply continue to process Notices as before and therefore to be unaffected by the regulation.

Based on its analysis, the Department believes that significant net benefits will derive from the direct costs and benefits of the administrative efficiencies which will result from standardization. The degree of the net benefit is a function of the size of the plan. All large plans (those with at least 100 participants) are expected to benefit almost immediately, as they are expected to receive multiple notices, thereby recovering their costs to implement new procedures through decreases in time spent handling subsequent Notices.

An aggregate net benefit is also expected for smaller plans (those with 10–99 participants) although the initial costs associated with procedural changes will be repaid through savings over a longer period of time. The positive cost/benefit ratio for this group is shown to grow progressively larger over time. Very small plans (those with fewer than 10 participants) are not expected to be affected in the aggregate by the regulation due to their relatively infrequent receipt of medical child support notices.

The estimated net benefits and costs of the regulation in the first three years of implementation are summarized in the table which follows. As shown, the regulation is estimated to result in savings of $26.6 million in the first year, reducing total processing costs by nearly one-half. The savings which accrue to plans will increase over the years as a progressively greater proportion of the Notices yield savings. The analysis indicates a net savings of $26.6 million in the first year increasing to $34.3 million by year three with a total aggregate savings of $92.3 million over the period.

[In millions at dollars]

	Baseline cost	Cost of investment under regulation	Cost of processing under regulation	Net savings under regulation
Year 1	$62.3	$5.7	$30.0	$26.6
Year 2	62.3	3.5	27.4	31.4
Year 3	62.3	3.1	24.9	34.3

The more general societal welfare gains that are expected to arise from improvements in the economic security and health of children are not taken into account in the summary of net benefits because they cannot be specifically quantified. A detailed discussion of the development of estimated costs and benefits follows.

Costs of the Proposed Regulation

The cost of this proposed regulation is the start-up cost incurred by ERISA plans to set up procedures to conform with the format of the Notice. This start-up process is assumed to require one hour of a professional's time at an hourly rate of $45, and that plan administrators will complete this work themselves, rather than purchase services. The cost is incurred the first time a plan receives a medical child support order under the standardized Notice format. For the 38,500 plans with 100 or more participants, this start-up cost is incurred entirely in year one, since every one of these plans receives its first standardized Notice in year one (because nearly 650,000 Notices are being sent to these plans each year). The start-up cost for these plans is $1.7 million. For plans with 10 to 99 participants, each year only a fraction of the 755,000 plans receive a medical child support order because there are only 95,000 Notices being sent to these plans yearly. However, the benefits of investing in establishing procedures to conform with the format of the Notice outweigh the start-up cost by year three. In year one, the start-up cost to these plans is $4.0 million. In year two the start-up cost falls to $3.5 million, because while some plans are receiving their first standardized Notice, others are receiving their second and subsequent Notices and therefore are benefitting from the initial investment in the process through cost savings. By year three, the start-up cost is $3.1 million, with the cost falling each subsequent year as more plans already have their procedures in place. Plans with fewer than 10 participants receive these Notices too infrequently to make the investment in establishing cost effective procedures (there are 1.7 million of these plans receiving only 28,000 Notices annually). Therefore it is assumed these plans will be unaffected by the standardized Notice.

Benefits of the Proposed Regulation

The introduction of a uniform notice with clear instructions may improve health care quality for children by preventing delays and denials of enrollment in group health plans, thereby encouraging early intervention in the treatment of disease and illness. The social welfare loss resulting from uninsured children is well documented in economic literature. Based on analysis of the 1998 Current Population Survey conducted by the Bureau of the Census, 15 percent of all children (or 10.7 million) are currently uninsured. The lack of private insurance generally increases the likelihood that needed medical treatment will be delayed or forgone, and that the ultimate costs of medical treatment will be shifted to public funding sources.

The link between uninsured children and the deficiencies of the existing child support process is demonstrated in the legislative history of CSPIA [6]. The legislative history indicates that there is

[6] 144 Cong. Rec. S7318 (daily ed. June 26, 1998) (Legislative History of Senate and House Amendments to the Child Support Performance and Incentive Act of 1998, Pub. L. No. 105–200).

a lack of communication of medical child support information between the State agencies and plan administrators because many State agencies simply notify plan administrators that an order has been issued, and in turn, many plan administrators consider this administrative notice insufficient to comply with current legal requirements. Although all child support orders are required to have a medical support component, only a reported 60 percent of all child support orders actually have this medical support component.

In addition, the legislative history cites a 1996 GAO review of state child support enforcement programs which determined that at least 13 states were not petitioning to include a medical support component in their child support orders, and 20 states were not enforcing existing medical child support orders. The number of children who are uninsured as a direct result of failures of this medical child support process is unknown. However, any reduction in the number of uninsured children that can be accomplished by the proposed regulation will produce substantial benefits for the health of those children, and preserve public resources for those without access to private coverage.

Direct benefits of Part B will accrue to plan administrators, State agencies, employers, non-custodial parent-participants, custodial parents, and alternate recipient(s). Part B will overcome the inefficiencies inherent in current practice, which often requires plan administrators to work with medical child support notices that differ from state to state and from individual to individual. Consequently, confusion arises as to what constitutes a QMCSO, and often as a result, the medical support is not provided. Specifically, benefits will accrue to plan administrators because they will all receive a standardized Notice (Part B) which is easy to comprehend and to administer, and which limits their risk of exposure to errors in their determinations of which orders are QMCSOs and therefore accurate identification of the dependent children eligible for enrollment in a group health plan. Finally, Part B will promote one of the objectives of the child support process, which is to ensure access to medical care coverage for children.

In the first year of a standardized Notice system, the total cost to private employer group health plans of processing child medical support orders is expected to drop from the current level of $62.3 million to $35.7 million. This estimate is derived as follows.

The Department estimates that plan administrators of ERISA-covered group health plans will receive a total of 770,000 Notices annually. This estimate is based on the HHS's (Office of Child Support Enforcement (OCSE) of the Administration for Children and Family (ACF)) projection of 1.2 million new child support orders with collections each year using historical data (through 1996) on total child support orders established by State agencies. The Department believes that the HHS data is a reasonable starting point for our analysis because current law requires that each child support order include a provision for medical support. Although the CSPIA provisions apply to church plans and governmental plans, cost estimates for these plans are not included in our analysis because under section 4(b) of ERISA, church plans and governmental plans are generally excluded from the coverage of Title I of ERISA and therefore are outside the Department's regulatory jurisdiction.

Applying the Bureau of Labor Statistics 1998 Current Population Survey (CPS) data on employment distribution between the public and private sectors to the estimated 1.2 million medical support orders projected to be issued annually yields an estimated 1 million new Notices issued to private sector employers. The Department then factored in an estimate of the Notices issued to the private sector that would be required as a result of employees changing jobs. This estimate, which was derived from the 1998 March CPS data is 200,000. Summing these values yields an estimated 1.2 million Notices to private sector employers annually.

For the purpose of distinguishing between those Notices that are QMCSOs and those that are not, either because there is no family group health coverage available through the employer or the parent is no longer employed by the employer receiving the Notice, the Department estimated the percentage of employers that offer a group health plan with family coverage in which a dependent child could be enrolled. This analysis is based on the April 1993 Employee Benefits CPS Supplement, the most recent source of complete data on employer offers of health insurance. These data show that for plans with fewer than 100 participants, 55 percent of plans do not offer family coverage. For plans with 100 or more participants, 15 percent do not offer family coverage. In addition, the Department assumed that approximately 2 percent (regardless of plan size) of the Notices will not be deemed to be qualified because the parent is no longer employed by the employer receiving the Notice. Applying these percentages to the 1.2 million Notices yields an expected number of Notices to be forwarded to plan administrators of 770,000.

The Department then estimated the number of group health plans potentially impacted by the proposed Notice by calculating the probability of a plan receiving a Notice. Given that there are 2.5 million ERISA-covered group health plans and only 770,000 Notices being sent to plans each year, not all health plans will receive a Notice each year. Furthermore, because the likelihood of receiving a Notice is a function of the number of participants, and plans vary widely in this regard, there will be wide variations in the distribution of costs and benefits based on plan size. Consequently, from year to year, not all plans will incur the start-up cost to establish procedures to conform with the Notice, and not all plans will reap the benefits of lower per Notice processing costs.

The probability of a plan receiving a Notice each year depends on the probability of any participant in the plan being subject to a medical child support order. The probability of a participant being the subject of a Notice is assumed to be independent of plan size or other factors. The Department therefore estimated this probability for each participant by dividing the number of participants in private employer group health plans, 65 million, into the number of Notices issued annually, 770,000. To translate the individual probabilities to a plan level required an estimation that would account for the result that some plans, due to the random distribution, would not receive a Notice. The plan level probabilities at different size intervals were therefore estimated as the difference between a 100 percent probability and the probability that a plan of a given size would not receive a Notice. Because outcomes are sensitive to plan size, the Department calculated these probabilities by three plan size groupings—fewer than 10 participants, 10 to 99 participants, and 100 or more participants. Segmentation of small plans by size is useful because due to the distribution of participants in small plans, combining all plans with fewer than 100 participants suggests that no small plans would be affected by the regulation. Further analysis shows that in the aggregate small plans with 10 to 99 participants will realize the net benefits of standardization, while only plans with fewer than 10 participants are expected to be unaffected.

Once the number of Notices by plan size and the probability of a plan receiving a Notice in any year by plan size were estimated, a year-by-year

analysis of the impact of the proposed regulation on group health plans was conducted. In the first year, plans with 100 or more participants would be expected to receive an average of 17 Notices each, because there are only 38,500 of these plans receiving nearly 650,000 Notices annually. Currently, because notices are not standardized, the time required to process each of these Notices per plan does not vary from the first to subsequent Notices. However, with the standardization benefits of the proposed regulation, the processing time for the second and subsequent Notices received by each plan is expected to result in significantly reduced processing time, from 1 hour and 45 minutes to 35 minutes. This reduction in processing time, using a $45 hourly professional's rate, 2 minutes in photocopying time at a $15 clerical rate, and $0.37 for materials and postage per required response, generates a reduction in the cost to plans with 100 or more participants of processing Notices from $52.4 million under the baseline to $22.1 million under the regulation. The savings is larger from the second year on because all of these plans incur the start-up cost in the first year—the cost falls from $52.4 million to $18.3 million.

In the aggregate, plans with 10 to 99 participants also show positive net benefits from a reduction in costs under the standardized Notice system. However, because there are 755,000 of these plans and only 95,000 Notices being sent to them, as a group these plans do not benefit from the reduction in cost until the third year in which the standardized Notice is being used. During the first two years, the aggregate investment to establish a processing system when the first standardized Notice is received outweighs the cost reduction from processing the second and subsequent Notices because more plans receive a first Notice than receive a second Notice. By the third year, enough plans have put their system in place to make the savings outweigh the start-up cost. In year one, the cost of processing medical support orders for plans with 10 to 99 participants is $7.6 million under the baseline and $11.4 million under the regulation (the higher cost is due to the start-up). These estimates assume the same processing hours and fees outlined above for the 100 or more participant plans. Similarly, in year two, the costs are $7.6 million and $10.3 million (slightly lower because of the plans that incurred the start-up cost in year one). By the third year, these plans face lower costs in processing medical child support orders because of the standardized Notice—costs drop from $7.6 million to $7.4 million, with the savings increasing in subsequent years as the start-up investment is recouped.

Standardization of the Notices is not expected to have an economic impact on plans with fewer than 10 participants. These plans receive Notices so infrequently (there are 1.7 million of these plans receiving only 28,000 Notices), that an investment in establishing a processing system for the standardized Notice is not cost effective, and these plans will choose to continue processing notices as they do at the present time. For these plans, the cost of processing Notices is $2.3 million, assuming 1 hour and 45 minutes processing time at a $45 hourly professional's rate, 2 minutes in photocopying time at a $15 clerical rate, and $0.37 for materials and postage per required response.

Alternative Approaches Considered

A number of alternative approaches to this proposed regulation were considered. Initially the Departments prepared a Notice which consisted of two parts. This format provided a number of defaults which decreased the discretion required in responding to the Notice and was particularly streamlined. This Notice was presented to the Medical Child Support Working Group at its first meeting in March of 1999. Members of the Working Group responded unfavorably to this format, noting that feedback to the Issuing Agency regarding the nature of coverage available and its effective date was essential to the effective enforcement of medical child support obligations. Based on comments received by the Agencies at this meeting, the Notice was redrafted. A second version of the Notice was developed which included four parts and a number of feedback loops. Again the Working Group provided commentary, responding that this version was too complicated and cumbersome. A third version of the Notice was developed which is being proposed in this rulemaking. This version provides a feedback loop to the Issuing Agency, a feature which the State Agency representatives on the Working Group desired, yet it retains a more streamlined and comprehensible approach than the previous version. Overall it represents a significant improvement over previous drafts. Specifically, it enables the State Agency to select the coverage that will ultimately be provided to the child(ren) from the options that are available to the participant/noncustodial parent. Enabling State Agencies to make this selection, rather than having the child automatically placed in a default coverage option, ensures that the child receives meaningful and accessible coverage from among the particular options available under the plan.

The Department invites comments on its assumptions and estimates of the potential benefits and costs of this proposal for plan administrators.

Paperwork Reduction Act

The Department, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95), 44 U.S.C. 3506(c)(2)(A). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Pension and Welfare Benefits Administration (PWBA) is soliciting comments concerning the proposed information collection request (ICR) included in Part B, Medical Support Notice to Plan Administrator of the National Medical Support Notice (Notice). A copy of the ICR may be obtained by contacting the PWBA official identified below in this Notice of Proposed Rulemaking.

The Department has submitted a copy of the proposed information collection to the Office of Management and Budget (OMB) for its review in accordance with 44 U.S.C. 3507(d) of PRA 95. The Department and OMB are particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of the responses.

Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Pension and Welfare Benefit Administration. Although comments may be submitted through January 14, 2000, OMB requests the comments be received within 30 days of the publication of the Notice of Proposed Rulemaking to ensure their consideration.

Requests for copies of the ICR may be addressed to: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, DC 20210. Telephone: (202) 219–4782 (this is not a toll-free number); Fax: (202) 219–4745.

Part B of the Notice would permit plan administrators to comply with the requirements of section 609(a)(5) of ERISA for Qualified Medical Child Support Orders (QMCSOs), as amended by section 401(d) of the Child Support Performance and Incentive Act of 1998 (CSPIA) (Pub. L. 105–200). Part B is comprised of the Medical Support Notice to the Plan Administrator, Plan Administrator Response, and Instructions to the Plan Administrator (hereinafter referred to as Part B). This proposed rule would require the group health plan administrator, upon receipt of Part B from the employer, to examine it and determine whether or not the Notice constitutes a QMCSO. Part B includes a checklist that makes this determination simple for the plan administrator. If any of the identifying information for the alternate recipient/child or non-custodial parent/participant is missing or the alternate recipient is no longer eligible for coverage, the plan administrator determines that the Notice is not a QMCSO. In this case, the plan administrator, having identified that the Notice is not a QMCSO, is required to check off the appropriate reason in Part B and forward it to the Issuing Agency. The plan administrator must also notify the non-custodial parent/participant and the custodial parent and alternate recipient(s) of the specific reasons for this determination. This requirement is met by mailing copies of Part B to these parties.

If the plan administrator determines that Notice is a QMCSO, then he or she must provide information regarding available coverage. Again, this process has been simplified by the provision of checklists for this purpose in Part B. Part B must then be forwarded by the plan administrator to the Issuing Agency. The plan administrator must also inform the non-custodial parent/participant, custodial parent, and alternate recipient(s) of the specific reasons for this determination. Notification of the custodial parent is deemed to be notification to the alternate recipients if they reside at the same address. This requirement may be met by mailing copies of the completed Part B to these parties.

The plan administrator must also provide the custodial parent with any forms, documents, or other information necessary to effectuate coverage. The Department has not assessed the cost to the plan administrator of providing forms, documents or other information because this information would need to be provided regardless of the requirements of the proposed regulation. If no other information or action is necessary, the plan administrator must enroll the alternate recipient in the available coverage, or notify the Issuing Agency and custodial parent of any other action to be taken in order to effectuate coverage.

Once the enrollment information is completed, the plan administrator must forward Part B to the employer for the determination that the necessary employee contributions may be made by the employee. Again, a copy of the completed Part B serves this purpose.

The Department estimates the total annual burden to plan administrators for preparation and distribution of Part B to be 785,000 hours and $1.1 million in the first year, or an average of $7 for each of the 156,000 plans receiving orders each year. The total hours includes 1 hour and 45 minutes of time for each first Notice, and 35 minutes for second and subsequent Notices, to determine whether the Notice is qualified and to prepare a response to the required parties, as well as one hour for start-up procedures for 128,000 plans. In addition, 2 minutes for copying and mailing at a $15 hourly clerical rate and $0.37 for materials and mailing costs for each of the 4 responses required per Notice were assumed for the distribution burden of $1.1 million. Plans with 100 or more participants are expected to bear most of this cost—485,000 hours and $960,000, or an average of $25 per plan—due to their handling of a larger volume of Notices. The annual burden for plans with 10 to 99 participants is estimated to be 250,000 hours and $140,000, or $2 per plan. The annual burden for plans with fewer than 10 participants is 50,000 hours and $42,000, or $1.50 per plan. It is assumed that plan administrators will complete this work themselves, rather than purchase services. Thus, all costs other than distribution costs (materials and mailing) were attributed to burden hours rather than dollars.

In the second and third years, the burden declines for two reasons. First, all plans with 100 or more participants incurred the burden to establish procedures to conform to the standardized Notice in year 1 and do not incur the burden in subsequent years. Second, plans with 10 to 99 participants incur the burden to establish procedures throughout years one, two, and three. However, the burden decreases over time because, of the 90,000 plans with 10 to 99 participants receiving Notices each year, an increasing number of them over time have already established the procedures for complying with the standardized Notice. Specifically, in year two, the Department estimates the total annual burden to plan administrators for preparation and distribution of Part B to be 680,000 hours and $1.1 million (the dollar figures do not change because mailing and distribution costs for the 770,000 Notices do not change over time). In year three, the Department estimates the total annual burden to plan administrators for preparation and distribution of Part B to be 615,000 hours and $1.1 million. The year two and three totals assume the same time, hourly rates, and fees as in year one.

Type of Review: New.

Agency: Pension and Welfare Benefits Administration, Department of Labor.

Title: National Medical Support Notice.

OMB Number: 1210–New.

Affected Public: Individuals or households; Business or other for-profit institutions; Not-for-profit institutions.

Frequency of Response: On occasion.

Total Respondents: 156,000.

Total Responses: 770,000.

Estimated Burden Hours: 785,000 in 2000; 680,000 in 2001; and 615,000 in 2002.

Estimated Annual Costs (Operating and Maintenance): $1.1 million.

Comments submitted in response to this Notice of Proposed Rulemaking will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative

Procedure Act (5 U.S.C. 551 *et seq.*) and which are likely to have a significant economic impact on a substantial number of small entities. Unless an agency certifies that a proposed rule will not have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis at the time of the publication of the notice of proposed rulemaking describing the impact of the rule on small entities, and seek public comment on such impact. Small entities include small businesses, organizations, and governmental jurisdictions.

For purposes of analysis under the RFA, the Pension and Welfare Benefits Administration (PWBA) considers a small entity to be an employee benefit plan with fewer than 100 participants. The basis for this definition is found in section 104(a)(2) of ERISA, which permits the Secretary of Labor to prescribe simplified annual reports for pension plans which cover fewer than 100 participants. Under section 104(a)(3), the Secretary may also provide for simplified annual reporting and disclosure if the statutory requirements of part 1 of Title I of ERISA would otherwise be inappropriate for welfare benefit plans. Pursuant to the authority of section 104(a)(3), the Department has previously issued at 29 CFR 2520.104–20, 2520.104–21, 2520.104–41, 2520.104–46 and 2520.104b–10 certain simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans covering fewer than 100 participants and which satisfy certain other requirements.

Further, while some large employers may have small plans, in general most small plans are maintained by small employers. Thus, PWBA believes that assessing the impact of this proposed rule on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business based on size standards promulgated by the Small Business Administration (SBA) (13 CFR 121.201) pursuant to the Small Business Act (5 U.S.C. 631 *et seq.*). PWBA therefore requests comments on the appropriateness of the size standard used in evaluating the impact of this proposed rule on small entities.

PWBA is promulgating this regulation because it is required to do so under section 401(b) of the Child Support Performance and Incentive Act of 1998 (CSPIA) (Pub. L. 105–200). CSPIA requires the Department of Labor and the Department of Health and Human Services (HHS) to jointly develop and promulgate by regulation a National Medical Support Notice (Notice). The content of the Notice is prescribed by the statute. Thus, as outlined in the economic analysis section of this preamble, the benefits and costs attributable to the regulation are those associated with the discretion exercised by the Department only in the format of the Notice. The statute affords no regulatory discretion with respect to application of the statutory requirements to entities of differing sizes. Nevertheless, analysis of the impact of the regulation indicates that in the aggregate, small plans with between 10 and 99 participants will benefit from standardization of medical support Notices, and that net benefits to these plans will grow progressively larger over time. Very small plans, those with fewer than 10 participants, are not expected to be affected by this rulemaking because it is assumed that due to the infrequency of their receipt of Notices, these plans will continue to handle medical child support notices as they do in the existing environment.

The standardized format is expected to reduce costs to process the Notices once an initial Notice is received and a procedure is established to handle subsequent Notices. Because of the infrequency with which very small plans are estimated to receive Notices, and the fact that administrative savings to offset procedural start-up costs can be achieved only on the receipt of second and subsequent Notices, it is assumed that those small plans with fewer than 10 participants will make an economically rational choice not to invest in establishing a new procedure to handle the standardized Notice. As a consequence, each standardized Notice will be handled by very small plans as a unique event, resulting in no cost or benefit over their current handling of these infrequent notices.

The objective of the proposed regulation is to introduce Part B—Medical Support Notice to Plan Administrator (Part B), which implements section 609(a)(5)(C) of Title I of ERISA, which was added by section 401(d) of CSPIA. Section 609(a)(5)(C) of ERISA provides that a Notice is deemed to be a Qualified Medical Child Support Order (QMCSO) if the plan administrator of a group health plan which is maintained by the employer of a non-custodial parent or to which the employer contributes, receives an appropriately completed Notice which meets the requirements for a qualified medical child support order under section 609(a) (3) and (4) of ERISA (which provides the informational requirements for a qualified order and restrictions on new types of benefits). New ERISA section 609(a)(5)(C) also establishes the requirements for plan administrators to enroll alternate recipient(s) in a group health plan and to notify the appropriate state agency, non-custodial parent, custodial parent and alternate recipient(s). Thus, the legal basis for the regulation is found in ERISA section 609(a)(5); an extensive list of authorities may be found in the Statutory Authority section, below.

The direct cost of compliance with Part B will be borne by ERISA-covered group health plans. Plans with 10 to 99 participants will benefit from a net aggregate reduction in costs under the standardized Notice system. However, because there are 755,000 of these plans and only 95,000 Notices being sent to them, these plans will first benefit from the net reduction in cost in the third year in which the standardized Notice is being used. During the first two years, the start-up cost to establish a processing system when the first standardized Notice is received is expected to outweigh the benefit of the cost reduction from processing the second and subsequent Notices. By the third year, enough plans will have put their systems in place to make the savings outweigh the start-up cost.

In year one, the cost of processing medical support order for plans with 10 to 99 participants is estimated at $7.6 million, or $85 per plan, under the baseline and $11.4 million, or $127 per plan, under the regulation (the higher cost is due to the start-up). These estimates assume the same processing hours and fees outlined in the economic analysis section of this preamble for large plans (those with at least 100 participants). Similarly, in year two, the costs are $7.6 million, or $85 per plan, and $10.3 million, or $116 per plan (slightly lower because of the plans that incurred the start-up cost in year one). By the third year, these plans face lower costs in processing medical child support orders because of the standardized Notice—costs drop from $7.6 million, or $85 per plan, to $7.4 million, or $83 per plan. Thus, the savings increases in subsequent years as the start-up investment is recouped by more plans.

Plans with fewer than 10 participants receive Notices so infrequently (there are 1.7 million of these plans receiving only 28,000 Notices), that an investment in establishing a new processing system for the standardized Notice would in most cases not be cost effective—they

would be unlikely to recoup the start-up costs from future savings resulting from processing second and subsequent Notices. For these plans, under the baseline and the regulation, the cost of processing Notices is $2.3 million, or $81 per plan, assuming 1 hour and 45 minutes processing time at a $45 hourly professional's rate, 2 minutes in photocopying time at a $15 clerical rate, and $0.37 for materials and postage per required response.

The data and assumptions underlying these aggregate costs and benefits are presented in detail above in the economic impact discussion. As noted, an estimated 770,000 Notices will be received and processed by plan administrators annually. The Department estimates that 16 percent, or 123,000, will be received by small plans with fewer than 100 participants: 95,000 going to plans with 10 to 99 participants and 28,000 to plans with fewer than 10 participants. This estimate is based on the 1993 Current Population Survey data on distribution of workers by firm size and family health insurance sponsorship by firm size. The Department examined subgroups within the small group health plan (those with fewer than 100 participants) universe. Most of the plans within this universe have fewer than 10 participants, yet most of the participants are found in plans with 10 to 99 participants. Consequently, most of the Notices are sent to plans with 10 to 99 participants.

For plans with 10 to 99 participants, 90,000 plans are projected to receive 95,000 Notices in year one. This means that in the first year, 5,000 of these plans will receive more than one Notice, allowing them to benefit from the cost reduction introduced by the standardized Notice. For each subsequent year, a growing number of these plans will receive two or more Notices, making the benefits of the regulation outweigh the start-up cost for plans with 10 to 99 participants within 3 years.

No federal rules have been identified that duplicate, overlap, or conflict with this proposed regulation. As discussed previously in the economic analysis under the Executive Order, a number of alternatives to this proposed regulation were considered. At least two distinct versions of the Notice were developed prior to arriving at this proposal. Prior drafts were critiqued by the Medical Child Support Working Group, which includes representatives from the small business community. Based on commentary received from the Working Group, the Agencies feel that this version of the Notice provides the minimum information necessary to comply with section 609(a)(5)(C) of ERISA and imposes the least economic impact on small entities. The establishment of different compliance requirements or an exemption from compliance for small entities was not considered in light of the goal of this rulemaking. Differing compliance schemes for small entities would frustrate the objective of providing a nationally uniform medical child support notice to be used by all State Agencies and to be easily identified by employers, plan administrators and parents.

The Department requests comments from small entities regarding what, if any, special problems they might encounter if this regulation were implemented as proposed, and what changes, if any, could be made to minimize these problems.

Small Business Regulatory Enforcement Fairness Act

The rule proposed in this action is subject to the provisions of the Small Business Regulatory Enforcement Act of 1996 (5 U.S.C. 801 *et seq.*) (SBREFA). The rule, if finalized, will be transmitted to Congress and the Comptroller General for review.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Order 12875, this proposed rule does not include any Federal mandate that may result in the expenditure by state, local and tribal governments in the aggregate, or by the private sector, of $100,000,000 or more in any one year.

Statutory Authority

Sections 505 and 609(e) of ERISA (Pub. L. 93–406, 88 Stat. 894, 29 U.S.C. 1135 & 1169(e)). Section 401(b) of CSPIA (Pub. L. 105–200, 112 Stat. 645).

List of Subjects in 29 CFR Part 2590

Employee benefit plans, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, Part 2590 of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLAN REQUIREMENTS

1. The part heading is revised to read as shown above.

2. The authority citation for part 2590 is revised to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1171, 1194; Sec. 4301, Pub. L. 103–66, 107 Stat. 372 (29 U.S.C. 1169); Sec. 101, Pub. L. 104–191, 101 Stat. 1936 (29 U.S.C. 1181); Secretary of Labor's Order No. 1–87, 52 FR 13129, April 21, 1987.

3. Part 2590 is amended by redesignating subparts A, B, and C as subparts B, C, and D, respectively and a new subpart A is added to read as follows:

Subpart A—Continuation Coverage, Qualified Medical Child Support Orders, Coverage for Adopted Children

Sec.
2590.609–1—(Reserved)

§ 2590.609–2 National Medical Support Notice.

(a) This section promulgates the National Medical Support Notice (the Notice), as mandated by section 401(b) of the Child Support Performance and Incentive Act of 1988 (Pub L. 105–200). If the Notice is appropriately completed and satisfies paragraphs (3) and (4) of section 609(a) of the Employee Retirement Income Security Act (ERISA), the Notice is deemed to be a qualified medical child support order (QMCSO) pursuant to section 609(a)(5)(C). Section 609(a) of ERISA delineates the rights and obligations of the alternate recipient, the participant, and the plan under a QMCSO.

(b) For purposes of this section, a Notice is appropriately completed if it contains the name of an issuing agency, the name and mailing address of an employee who is a participant under the plan, the name and mailing address of one or more alternate recipient(s) (or the name and address of a substituted official or agency which has been substituted for the mailing address of the alternate recipient(s)), and if the family group health care coverage required by the child support order is identified and available.

(c) For the purposes of this section, an ''Issuing Agency'' is a State agency that administers the child support enforcement program under Part D of Title IV of the Social Security Act.

Signed at Washington, DC, this 4th day of November, 1999.

Richard M. McGahey,

Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor.

Note: The following appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4510–29–P

APPENDIX

NATIONAL MEDICAL SUPPORT NOTICE

OMB NOS.

PART A

EMPLOYER WITHHOLDING NOTICE

This Notice is issued under Section 466(a)(19) of the Social Security Act and Section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 (ERISA).

Issuing Agency: _____ Issuing Agency Address: _____ _____ Date of Notice: _____ Case Number: _____ Telephone Number: _____	Court Name: _____ Date of Support Order: _____ Support Order Number: _____

_____)
Employer/Withholder's Federal EIN Number

_____)
Employer/Withholder's Name

_____)
Employer/Withholder's Address

_____)
Custodial Parent's Name (Last, First, MI)

_____)
Custodial Parent's Mailing Address

_____)
Alternate Recipient/Child(ren)'s Mailing Address (if different from Custodial Parent's)

_____)
_____)
_____)
Name, Mailing Address, and Telephone Number of a Representative of the Alternate Recipient(s)/Child(ren)

RE* _____
Employee/Obligor's Name (Last, First, MI)

_____
Employee/Obligor's Social Security Number

_____
Employee/Obligor's Mailing Address

_____
Substituted Official/Agency Name and Address

Alternate Recipient/Child(ren)'s Name(s)	DOB	SSN	Alternate Recipient/Child(ren)'s Name(s)	DOB	SSN

Type of group health care coverage required by the order: ___(Basic); ___(Dental); ___(Vision); ___(Prescription drug); ___(Mental health); ___(Other) - _____

draft

EMPLOYER RESPONSE

(To be completed by Employer, as appropriate)

If either 1 or 2 below applies, check the appropriate box and return this Part A to the Issuing Agency. NO OTHER ACTION IS NECESSARY. If neither 1 nor 2 applies, forward Part B to the appropriate plan administrator(s). If the Plan Administrator informs you that the child(ren) is/are enrolled in an option under the plan the employee contribution for which exceeds the amount that may be withheld from the employee's income due to State or Federal withholding limitations and/or prioritization, check number 3 and return this Part A to the Issuing Agency.

□ 1. Employer does not maintain or contribute to plans providing dependent or family health care coverage or the employee is among a class of employees (for example, part-time or non-union) that are not eligible for family health coverage under any group health plan maintained by the employer or to which the employer contributes.

□ 2. Health care coverage is not available because employee is no longer employed by the employer:

Last known address: _____

Last known telephone number: _____

New employer (if known): _____

New employer address: _____

New employer telephone number: _____

□ 3. State or Federal withholding limitations and/or prioritization prevent the withholding from the employee's income of the amount required to obtain coverage under the terms of the plan.

Employer Representative:

Name: _____ Telephone Number: _____

Title: _____ Date: _____

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INSTRUCTIONS TO EMPLOYER

This document serves as notice that the employee identified above is obligated by a court or administrative child support order to provide health care coverage for the child(ren) also identified above. This Medical Support Notice replaces any Medical Support Notice that the Issuing Agency has previously served on you with respect to the employee and the children listed on this Notice. Such child(ren) are also referred to as Alternate Recipient(s) in the Notice.

The document consists of **Part A - Employer Withholding Notice** for the employer to withhold any employee contributions required by the group health plan(s) in which the alternate recipient(s) is/are enrolled; and **Part B - Medical Support Notice to the Plan Administrator**, which must be forwarded to the administrator of each group health plan identified by the employer to enroll the eligible alternate recipient(s)/child(ren).

EMPLOYER RESPONSIBILITIES

As the employer of the employee, you are required to:

1. If the individual named above is not your employee, or if family health care coverage is not available, please complete item 1 or 2 of the Employer Response as appropriate, and return it to the Issuing Agency. NO FURTHER ACTION IS NECESSARY.

2. If family health care coverage is available for which the alternate recipient(s)/child(ren) identified above may be eligible, you are required to:

   a. Transfer, not later than 20 business days after the date of this Notice, a copy of **Part B - Medical Support Notice to the Plan Administrator** to the administrator of each appropriate group health plan for which the alternate recipient(s)/child(ren) may be eligible, and

   b. Upon notification from the plan administrator(s) that the alternate recipient(s)/child(ren) is/are enrolled, either

      1) withhold from the employee's income any employee contributions required under each group health plan, in accordance with the applicable law of the employee's principal place of employment and transfer employee contributions to the appropriate plan(s), or

      2) complete item 3 of the Employer Response to notify the Issuing Agency and the parties that enrollment cannot be completed because of prioritization or limitations on withholding.

LIMITATIONS ON WITHHOLDING

The amount withheld cannot exceed ___% of the employee's aggregate disposable weekly earnings. The employer may not withhold more than the lessor of:

1. The amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C., section 1673(b));

2. The amounts allowed by the State of the employee's principal place of employment; or

3. The amounts allowed for medical support by the child support order.

The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as State, Federal, local taxes; Social Security taxes; and Medicare taxes.

PRIORITY OF WITHHOLDING

If withholding is required for employee contributions to one or more plans under this notice and for a support obligation under a separate notice and available funds are insufficient for withholding for both cash and medical support contributions, the employer must withhold amounts for purposes of cash support and medical support contributions in accordance with the law, if any, of the State of the employee's principal place of employment requiring prioritization between cash and medical support.

DURATION OF WITHHOLDING

The alternate recipient(s)/child(ren) shall be treated as dependents under the terms of the plan. Coverage of an alternate recipient as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA may entitle the alternate recipient to continuation coverage under the plan. The employer must continue to withhold employee contributions and may not disenroll (or eliminate coverage for) the alternate recipient/child(ren) unless:

1. The employer is provided satisfactory written evidence that:

   a. The court or administrative child support order referred to above is no longer in effect; or
   b. The alternate recipient(s)/child(ren) is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan; or

2. The employer eliminates family health coverage for all of its employees.

POSSIBLE SANCTIONS

An employer may be subject to sanctions or penalties imposed under State law and/or ERISA for discharging an employee from employment, refusing to employ, or taking disciplinary action against any employee because of medical child support withholding, or for failing to withhold income, or transmit such withheld amounts to the applicable plan(s), as the Notice directs.

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NOTICE OF TERMINATION OF EMPLOYMENT

In any case in which the above employee's employment with the above employer terminates, the employer must promptly notify the Issuing Agency listed above of such termination. This requirement may be satisfied by sending to the Issuing Agency named above a copy of any notice the employer is required to provide under the continuation coverage provisions of ERISA or the Health Insurance Portability and Accountability Act.

EMPLOYEE LIABILITY FOR CONTRIBUTION TO PLAN

The employee is liable for any employee contributions that are required under the plan(s) for enrollment of the alternate recipient(s)/child(ren) and is subject to appropriate enforcement. The employee may contest enforcement based on a mistake of fact (such as the identity of the obligor). Should an employee contest, the employer must proceed to comply with the employer responsibilities in this Notice until notified by the Issuing Agency to discontinue withholding.

CONTACT FOR QUESTIONS

If you have any questions regarding this Notice, you may contact the Issuing Agency at the address and telephone number listed above.

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NATIONAL MEDICAL SUPPORT NOTICE OMB NOS.

PART B

MEDICAL SUPPORT NOTICE TO PLAN ADMINISTRATOR

This Notice is issued under section 466(a)(19) of the Social Security Act and section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 (ERISA). **Receipt of this Notice from the Issuing Agency constitutes receipt of a Medical Child Support Order under ERISA section 609(a)(5)(A) and (B).** The rights of the parties and the duties of the plan administrator under this NOTICE are in addition to the existing rights and duties established under such section.

Issuing Agency: _____ Issuing Agency Address: _____ _____ Date of Notice: _____ Case Number: _____ Telephone Number: _____	Court Name: _____ Date of Support Order: _____ Support Order Number: _____

_____)
Employer/Withholder's Federal EIN Number

RE* _____
Employee/Obligor's Name (Last, First, MI)

_____)
Employer/Withholder's Name

_____
Employee/Obligor's Social Security Number

_____)
Employer/Withholder's Address

_____
Employee/Obligor's Address

_____)
Custodial Parent's Name (Last, First, MI)

_____)
Custodial Parent's Address

_____
Substituted Official/Agency Name and Address

_____)
Alternate Recipient/Child(ren)'s Address (if Different from Custodial Parent's)

_____)
_____)
_____)
Name(s), Mailing Address, and Telephone Number of a Representative of the Alternate Recipient(s)/Child(ren)

Alternate Recipient/Child(ren)'s Name(s)	DOB	SSN	Alternate Recipient/Child(ren)'s Name(s)	DOB	SSN

Type of group health care coverage required by the order: ___(Basic); ___(Dental); ___(Vision); ___(Prescription drug); ___(Mental health); ___(Other) - _____

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PLAN ADMINISTRATOR RESPONSE

(To be completed by the plan administrator and returned to the Issuing Agency)

This Notice was received by the plan administrator on _____.

1. □ This Notice does not constitute a "qualified medical child support order" because:
   □ The name of the □ alternate recipient(s) or □ participant is missing.
   □ The mailing address of the □ alternate recipient(s) or □ participant is missing.
   □ The alternate recipient(s) is/are at or above the age at which dependents are no longer eligible for coverage under the plan.

2. □ This Notice was determined to be a "qualified medical child support order," on _____. If dependent-only coverage is not available under the plan, the employee and alternate recipient(s) are to be enrolled in family coverage as indicated below.

a. □ There is only one type of coverage provided under the plan. The alternate recipient(s) is/are included as dependents of the participant under the plan.

b. □ There is more than one option available under the plan. The Issuing Agency must select from the available options and return this Part B to the Plan Administrator named below for processing. Each alternate recipient is to be included as a dependent under one of the following options that provide family coverage:

□ (1)_____[if enrolled, the participant has elected this option]
□ (2)_____
□ (3)_____

3. The plan administrator received all information necessary for enrollment on _____(date). Coverage is effective as of _____. Any necessary withholding should commence if permitted under State and Federal withholding and/or prioritization limitations. The alternate recipient(s) has/have been enrolled in the following option(s):

Name and address of plan or insurance carrier(s):	PIN or Contract number:	Address to submit claims:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Plan Administrator or Representative:

Name: _____ Telephone Number: _____

Title: _____ Date: _____

Address:_____

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INSTRUCTIONS TO PLAN ADMINISTRATOR

Paperwork Reduction Act Notice

The Issuing Agency asks for the information on this form to carry out the law as specified in the Employee Retirement Income Security Act. You are required to give the Issuing Agency the information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Issuing Agency needs the information to determine whether health care coverage is provided in accordance with the underlying child support order. The Average time needed to complete and file the form is estimated below. These times will vary depending on the individual circumstances.

	Learning about the law or the form	Preparing the form
First Notice	1 hr.	1 hr., 45 min.
Subsequent Notices	-----	35 min.

This Notice has been forwarded from the employer identified above to you as the plan administrator of a group health plan maintained by the employer (or a group health plan to which the employer contributes) and in which the noncustodial parent/participant identified above is enrolled or is eligible for enrollment.

This Notice serves to inform you that the noncustodial parent/participant is obligated by an order issued by the court or agency identified above to provide health care coverage for the alternate recipient(s)/child(ren) if available under the group health plan(s) as described on **Part B**.

(A) If the participant and alternate recipient(s)/child(ren) and their mailing addresses (or that of a Substituted Official or Agency) are identified above, and if coverage for the alternate recipient(s) is or will become available, this Notice constitutes a "qualified medical child support order" under ERISA, and you must, within 40 business days of the date of this Notice, or sooner if reasonable:

(1) Complete **Part B - Plan Administrator Response** and send it to the Issuing Agency, notify the noncustodial parent/participant named above, each named alternate recipient/child, and the custodial parent that coverage of the alternate recipient(s) is or will become available (notification of the custodial parent will be deemed notification of the alternate recipient(s) if they reside at the same address);

(2) furnish the Issuing Agency and custodial parent a description of the coverage available and the effective date of the coverage;

(3) provide to the custodial parent any forms, documents, or information necessary to effectuate such coverage (including the applicability of creditable coverage under HIPAA);

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(4) if the plan has more than one coverage option, notify the noncustodial parent/participant that the option that he or she has elected (if any) may be changed by an election of the Issuing Agency on behalf the alternate recipient(s);

(5)(a) if no other information or action is required, include the alternate recipient(s) in the available coverage, or,

(b) notify the Issuing Agency and the custodial parent of any additional steps to be taken, and

(6) upon completion of the enrollment information, transfer the applicable information on **Part B** to the employer for a determination that the necessary employee contributions are available.

(B) If within 40 business days of the date of this Notice, or sooner if reasonable, you determine that this Notice does not constitute a "qualified medical child support order," you must complete **Part B - Plan Administrator Response** and send it to the Issuing Agency, and inform the noncustodial parent/participant, custodial parent, and alternate recipient(s) of the specific reasons for your determination.

UNLAWFUL REFUSAL TO ENROLL

Enrollment of an alternate recipient may not be denied on the ground that: (1) the alternate recipient was born out of wedlock; (2) the alternate recipient is not claimed as a dependent on the participant's Federal income tax return; or (3) the alternate recipient does not reside with the participant or in the plan's service area. All enrollments are to be made without regard to open season restrictions.

PERIOD OF COVERAGE

The alternate recipient(s)/child(ren) shall be treated as dependents under the terms of the plan. Coverage of an alternate recipient as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA may entitle the alternate recipient to continuation coverage under the plan. Once an alternate recipient is enrolled in the plan as directed above, the alternate recipient may not be disenrolled unless:

(1) The plan administrator is provided satisfactory written evidence that either:
(a) the court or administrative child support order referred to above is no longer in effect, or
(b) the alternate recipient is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan;

(2) The employer eliminates family health coverage for all of its employees; or

(3) Any available continuation coverage is not elected, or the period of such coverage expires.

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CONTACT FOR QUESTIONS

If you have any questions regarding this Notice, you may contact the Issuing Agency at the address and telephone number listed above.

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[FR Doc. 99–29412 Filed 11–12–99; 8:45 am]
BILLING CODE 4510–29–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

RIN 0970–AB97

45 CFR Part 303

National Medical Support Notice

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families, HHS.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This proposed regulation implements provisions of the Child Support Performance and Incentives Act of 1998 (CSPIA), Public Law 105–200, that require State child support enforcement agencies, under title IV–D of the Social Security Act (the Act), to enforce the health care coverage provision in a child support order, and to use the National Medical Support Notice (NMSN) to aid enforcement.

DATES: Consideration will be given to written comments received by January 14, 2000.

ADDRESSES: Address comments to: Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW., Washington DC 20447. Attention: Division of Policy and Planning, Office of Child Support Enforcement. Comments will be available for public inspection Monday through Friday, 8:00 A.M. to 4:30 P.M. on the fourth floor of the Department's offices at the address mentioned above.

FOR FURTHER INFORMATION CONTACT: John Seneta, Division of Policy & Planning, OCSE, tel: (202) 401–5154, fax: (202) 401–3444, e-mail: jseneta@acf.dhhs.gov

SUPPLEMENTARY INFORMATION

Statutory Authority

This notice of proposed rulemaking is published under the authority of sections 452(f) and 466(a)(19) of the Social Security Act (the Act), 42 U.S.C. 652(f) and 666(a)(19), as amended by section 401 of the Child Support Performance and Incentive Act of 1998 (CSPIA), Public Law 105–200, and technical amendments in section 4(b) of the Noncitizen Benefit Clarification and other Technical Amendments Act of 1998, Public Law 105–306.

Section 401(b)(4) of CSPIA requires the Secretaries of Health and Human Services (HHS) and Labor to publish interim regulations providing for the NMSN not later than 10 months after the date of enactment of CSPIA. The date of enactment was July 16, 1998 and 10 months from that date is May 16, 1999. The Medical Child Support Working Group asked to be involved in the development of the notice prior to the original publication due date. In the interest of developing a proposed Notice that best addresses the needs and concerns of the affected parties, DOL and HHS solicited comments and suggestions regarding the Notice from the Working Group at its public meetings of April 13, and May 12 and 13, 1999, that proved very helpful in the development of the Notice that is proposed herein. In order to encourage greater public participation in this rulemaking and reduce the possibility of confusion, the agencies have decided to publish the Notice as a Proposed Rule, rather than as an interim regulation. We believe that this more closely comports with congressional intent to permit the affected parties, including the Working Group, to comment on the Notice before it becomes effective.

Also being published in the **Federal Register** today is a parallel proposed regulation developed by the Department of Labor (DOL) under section 609(a) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1169(a)), adopting the NMSN. Under ERISA section 609(a)(5)(C), if the NMSN is appropriately completed, and satisfies the conditions of ERISA section 609(a)(3) and (4), the NMSN is deemed to be a ''qualified medical child support order'' as defined in section 609(a) of ERISA.

In this regulation, OCSE is implementing the provisions of CSPIA that require States to have in effect laws that require procedures to enforce the health care coverage provisions in child support orders through the use of the NMSN. The NMSN notifies the noncustodial parent's employer of the provision for health care coverage of the child in a IV–D case.

Background

The enactment of the Child Support Enforcement Amendments of 1984, Public Law 98–378, added a new section 452(f) to the Act that required the Secretary to issue regulations to require State IV–D agencies to secure medical support information, and to secure and enforce medical support obligations whenever health care coverage is available to the noncustodial parent at a reasonable cost. Initially these regulations were placed in Subpart B at 45 CFR 306.50 and 51. Subsequently they were redesignated and placed where they appear now at 45 CFR 303.30 and 31. Since the enactment of this legislation and the implementing regulations, States have been making efforts to establish and enforce medical support for children with limited success.

The Omnibus Budget Reconciliation Act of 1993 (OBRA), Public Law 103–66, was a significant piece of legislation that contained provisions intended to remove some of the impediments to State IV–D agency attempts to secure and enforce medical coverage for children in IV–D cases. OBRA contained many improvements that facilitated obtaining and enforcing medical coverage, including: prohibiting discriminatory health care coverage practices; creating ''qualified medical child support orders'' (QMCSOs) to obtain coverage from group health plans subject to ERISA; and allowing employers to deduct the costs of health insurance premiums from the employee/obligor's income. Some of the medical support provisions of OBRA were included as Medicaid State plan requirements under section 1908 of the Act [42 U.S.C.1396g–1] and required States to enact laws governing employer and insurer compliance with health care provisions of support orders. The QMCSO provisions are contained in section 609 of ERISA (29 U.S.C. 1169).

Section 382 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193, added a new paragraph 19 to section 466(a) of the Act (466(a)(19)) that requires a provision for health care coverage in all child support orders established or enforced by IV–D agencies. Prior to enactment of PRWORA, health care coverage was required for cases with an assignment of medical support rights for public assistance cases under titles IV–A, XIX, and IV–E, and, by regulation, individuals not receiving public assistance could choose not to seek medical support. Despite improved medical support requirements (such as procedures for including health care coverage in all child support orders under title IV–D) and a focus on enforcement of medical support by OCSE and the State IV–D programs, the enforcement of medical support coverage for children under the IV–D program has remained elusive.

Extensive consultations with State IV–D agencies, employers, HHS, DOL, and advocates of medical support coverage, resulted in an array of medical support provisions in CSPIA. These provisions were enacted in order to further eliminate barriers that prevent meaningful establishment and enforcement of medical child support coverage.

In addition to the requirements that are contained in this regulation, CSPIA

provides for the establishment of a Medical Child Support Working Group. The Working Group is charged with submitting a report to the Secretaries of Health and Human Services and Labor containing recommendations regarding appropriate measures to address impediments to the effective enforcement of medical support by IV–D agencies. This report is due not later than January 2000. The Secretaries in turn will jointly submit a report to Congress not later than two months after receiving the Working Group's report. The Working Group includes 30 members representing: HHS and DOL, State child support directors, State Medicaid directors, employers (including payroll professionals), sponsors and administrators of group health plans (as defined in section 607(1) of ERISA), children potentially eligible for medical support, such as child advocacy organizations, State medical child support programs, and organizations representing State child support programs.

Section 401 of CSPIA modified section 452(f) of the Act to make it consistent with the requirement in section 466(a)(19) of the Act, as amended by section 382 of PRWORA, that medical support be included as part of any child support order under title IV–D of the Act. Section 401 of CSPIA further strengthens the enforcement of medical support coverage for children by requiring HHS and DOL to jointly develop a NMSN to be issued by States to enforce the medical support obligations of a non-custodial parent. The NMSN must comply with requirements of section 609(a)(3) and (4) of ERISA, which pertain to informational requirements and restrictions against requiring new types or forms of benefits. In addition to complying with ERISA requirements and all title IV–D requirements, the NMSN must include a severable employer withholding notice informing the employer of: (1) applicable provisions of State law requiring the employer to withhold any employee contributions due under any group health plan in connection with coverage required to be provided; (2) the duration of the withholding requirement; (3) the applicability of limitations on any such withholding under title III of the Consumer Credit Protection Act; (4) the applicability of any prioritization required under State law between amounts to be withheld for purposes of cash support and amounts to be withheld for purposes of medical support, in cases where available funds are insufficient for full withholding for both purposes; and (5) the name and telephone number of the appropriate unit or division to contact at the State agency regarding the NMSN.

We believe that employers will welcome the use of a standard form that will be used by all State IV–D agencies as required in these regulations. This will simplify processing for all concerned and most importantly enhance health care coverage for children who are excluded from their noncustodial parent's group health plan.

Section 466(a)(19) of the Act, as amended by section 401(c)(3) of CSPIA, requires States to have in effect laws requiring the use of procedures providing for IV–D agencies to use the NMSN to enforce child support orders which include a provision for the health care coverage of the child. Section 466(a)(19)(B) of the Act requires the use of the NMSN in all cases where the noncustodial parent is required to provide health care coverage for the child pursuant to the order and the noncustodial parent's employer is known to the State agency. The statute provides an exception, under section 466(a)(19)(B), to using the NMSN if a court or administrative order stipulates alternative health care coverage to the noncustodial parent's employment-based coverage.

Under section 466(a)(19)(B)(i), States must use the NMSN to transfer notice of the provision for health care coverage of the child to employers, including State or local governments and churches. Section 466(a)(19)(B)(ii) requires the employer within 20 business days after the date of the NMSN, to transfer the NMSN, without the employer withholding notice, to the appropriate plan which provides health care coverage for which the child is eligible.

Upon notification by the plan administrator(s) that enrollment of the child(ren) has been completed and withholding is required for employee contributions to one or more plans under this notice, the employer implements the withholding from the employee's income. The employer withholds employee contributions within the limitations on withholding in accordance with the amounts allowed by the State of the employee's principal place of employment (which may equal or be less than that allowed by the Federal Consumer Credit Protection Act (15 U.S.C., section 1673(b)), or the amounts allowed for medical support by the child support order whichever is less. The employer also observes the State law of the employee's principal place of employment for prioritization purposes if withholding is required for both cash and medical support payments.

Section 466(a)(19)(B)(iii) of the Act requires, in cases where the noncustodial parent is a newly hired employee, that the State agency send the NMSN, together with the income withholding notice pursuant to section 466(b) of the Act, within 2 business days after the date the newly hired employee is entered into the State Directory of New Hires, pursuant to section 453A of the Act.

Under section 466(a)(19)(B)(iv) when the employment of a noncustodial parent with any employer who has received an NMSN is terminated, the employer is required to notify the State IV–D agency of this termination. Finally, under paragraph (C), any liability of a noncustodial parent employee to a group health plan for contributions necessary for enrollment of a child is subject to appropriate enforcement, unless the employee contests such enforcement based on a mistake of fact.

States must implement use of the NMSN no later than the first day of the first quarter beginning after the close of the first regular State legislative session that begins after October 1, 2001. This deadline provides States ample opportunity to enact implementing State legislation after publication of final regulations, issuance of the Medical Child Support Working Group's recommendations, and the Secretaries' report to Congress.

Description of Regulatory Provisions

We are implementing the statutory requirement for the development and use of the NMSN by adding a new section, 45 CFR 303.32, ''National Medical Support Notice,'' to existing rules governing the Child Support Enforcement program under title IV–D of the Act. This section restates statutory requirements.

Section 303.32(a) requires the State to have laws requiring procedures for the mandatory use of the NMSN in accordance with section 466(a)(19) of the Act.

Section 303.32(b) provides for an exception to the use of the NMSN. The exception applies to cases with court or administrative orders that stipulate alternative health care coverage.

Section 303.32(c) includes the mandatory procedures for enforcement of health care coverage for the child through the use of the NMSN.

Section 303.32(c)(1) requires State IV–D agencies to use the NMSN to provide notice of the provision for health care coverage of the child(ren) to employers.

Section 303.32(c)(2) requires State agencies to send the NMSN to the employer within 2 business days after the date of entry into the State Directory of New Hires of an employee who is an obligor in a IV–D case.

Section 303.32(c)(3) requires employers to transfer the NMSN to the appropriate group health care plan providing any such health care coverage for which the child(ren) is eligible (excluding the severable employer withholding notice directing the employer to withhold any mandatory contributions to the plan) within 20 business days after the date of the NMSN.

Section 303.32(c)(4) requires employers to withhold any mandatory employee contributions to the plan and send any employee contributions withheld directly to the plan. If the employee contests such withholding, we are proposing that employers initiate withholding until such time as the employer receives notice that the contest is resolved.

Employers are specifically directed to transfer contributions to the plan because employers may also be directed by a separate child support withholding notice to forward support payments withheld from the employee's wages to a State IV–D agency.

Section 303.32(c)(5) requires employers to notify the State agency promptly whenever the employment of a noncustodial parent for whom the employer received an NMSN is terminated. This is consistent with the requirement for notification of termination in income withholding cases pursuant to 45 CFR 303.100(e)(1)(x).

To comply with statutory requirements, section 303.32(d) requires laws requiring the use of the NMSN to be enacted by States. The requirements for NMSN use must be effective the later of October 1, 2001 or the effective date of implementing State law. Such State laws must be effective no later than the first day of the first calendar quarter beginning after the first session of the State legislature that begins after October 1, 2001. For States that have 2-year legislative sessions, each year of such session would be regarded as a separate regular session.

Description of the National Medical Support Notice

In the development of this notice, we involved the Medical Child Support Working Group. The Working Group provided substantive comments, recommendations for changes, and a changed format that will be easy to follow by all parties concerned.

A State IV–D agency will issue a two part NMSN to an employer who maintains or contributes to a group health plan. Part A of the NMSN, the Employer Withholding Notice, is modeled on the Federally-approved standardized income withholding form that was issued to State IV–D agencies by action transmittal (OCSE–AT–98–03) on January 27, 1998. Employers have voiced approval of this form indicating that the standardized uniform withholding form has greatly facilitated the processing of child support income attachments.

Part A, the Employer Withholding Notice, includes information for, and responsibilities of the employer. The ''Instructions to Employer'' segment of the form explains the responsibilities of the employer. The issuing agency provides this information starting with the name and address of the issuing agency, date of the notice, case number, telephone number of the issuing agency, court name (if applicable), date of the support order, and the support order number.

The issuing agency provides pertinent information with respect to the employer, the employee/obligor, the custodial parent, and the child or children also known as alternate recipients. The issuing agency provides the employer's Federal EIN number (if known) and the employer's name and address. Information on the employee/obligor is also provided including the employee/obligor's name, social security number, and mailing address. Information is provided on the custodial parent, and the child or children (the children are also referred to as alternate recipients). These include the names and address of the custodial parent and children. If there is a danger of domestic violence and abuse to the custodial parent and/or the children, provision is made to substitute the address of the custodial parent and children with name and address of an agency official. Finally, the Notice includes a provision for the type of family group health care coverage that is required by the order, e.g., basic, dental, vision, prescription drug, mental health, and other.

The ''Employer Response'', attached to Part A, is to be completed by the employer, as appropriate when either (1) the employer does not offer or participate in plans providing family health care coverage or the employee is among a class of employees that are not eligible for family health coverage under any group health plan maintained by the employer or to which the employer contributes, (2) coverage is unavailable because the employee is no longer employed by the employer, or (3) State or Federal withholding limitations and/or prioritization preclude the withholding from the employee's income of the amount necessary for coverage.

Under the proposed DOL regulation published today at FR Part B of the NMSN, the Medical Support Notice, notifies the administrator of the group health plan in which the named employee is enrolled or eligible for enrollment, that the employee is obligated by a court or administrative child support order to provide medical support coverage for the named child(ren). Part B provides the information necessary for the plan administrator to treat the notice as a ''qualified medical child support order'' under section 609(a) of ERISA, and to enroll the child(ren) as dependents in the group health plan. Part B of the NMSN was also developed to comply with the requirements placed on group health plans under State laws described in section 1908 of the Act, and to accommodate the requirements on State agencies to use automated processing of medical child support orders as well. Part B also includes a ''Plan Administrator Response'' that is used by the plan administrator to inform the Issuing Agency, that either the child has been enrolled, or not enrolled with a reason, and other information regarding coverage that is pertinent or lacking for enrollment. The specific contents of Part B are explained in detail in the DOL regulation published today.

In order to provide an opportunity for maximum review and public comment on the National Medical Support Notice (NMSN), we have attached the proposed NMSN (including instructions) as an Appendix. We will revise this notice following the comment period on the NPRM and will issue it to States through the ACF policy issuance system. We will not re-publish this appendix as a part of the final rule. However, we will make appropriate changes as a result of comments received.

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this proposed rule is consistent with these priorities and principles. The changes in this proposed rule reiterate the language in the statute, and do not add any nonstatutory requirements.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Public Law 96–354) requires the Federal

government to anticipate and reduce the impact of regulations and paperwork requirements on small entities. The Secretary certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because the primary impact of these regulations is on State governments.

Paperwork Reduction Act of 1995

Section 303.32(c)(1) contains an information collection requirement. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Administration for Children and Families has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

- *Title:* National Medical Support Notice.
- *Summary:* The information collected by State title IV–D agencies will be used to complete the National Medical Support Notice (NMSN) which will be sent to employers of employee/obligors and used as a means of enforcing the health care coverage provision in a child support order. Primarily, the information State agencies will use to complete the NMSN will be the information regarding appropriate persons which is necessary for the enrollment of the child in employer related health care coverage, such as the employee/obligor (name, SSN, mailing address); employer's name/address; the name/address of the Alternate Recipient who is the child; and the custodial parent's name and address. The employer forwards the second part of the NMSN to the group health plan administrator which contains the same individual identifying information. The plan administrator requires this information to determine whether to enroll the Alternate Recipient in the group health plan. If necessary, the employer would also initiate wage withholding from the employee's wages for the purpose of paying premiums to the group health plan for enrollment of the child.
- *Description of the likely respondents:* State and local title IV–D agencies initiate the process of enforcing medical health care coverage for the child by completing and sending the notice to known employers of the noncustodial parents (employee/obligors). Employers and plan administrators are on the receiving end of the NMSN.

Information collection	([1])
Number of respondents	54
Responses per respondent	13,454
Average burden hours per response	.1666
Total annual burden hours	123,507

[1] 45 CFR 303.32.

ACF will consider comments by the public on this proposed rule in:

- Evaluating the accuracy of ACF's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumption used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, *e.g.*, permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this interim final regulation between 30 and 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. This does not affect the deadline for the public to comment to the Department on the proposed regulation. Written comments to OMB for the 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. Wendy Taylor.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

We have determined that the rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small governments.

Congressional Review

This rule is not a major rule as defined in 5 U.S.C., Chapter 8.

List of Subjects in 45 CFR Part 303

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No 93.563, Child Support Enforcement Program)

Dated: July 14, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: August 3, 1999.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons discussed above, we are proposing to amend 45 CFR chapter III as follows:

PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation of part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. A new 303.32 is added to read as follows:

§ 303.32 National Medical Support Notice.

(a) *Mandatory State laws.* States must have laws, in accordance with section 466(a)(19) of the Act, requiring procedures specified under paragraph (c) of this section for the use of the National Medical Support Notice (NMSN) to this section, to enforce the provision of health care coverage for children of noncustodial parents who are required to provide health care coverage through an employment-related group health plan pursuant to a child support order and for whom the employer is known to the State agency.

(b) *Exception.* States are not required to use the NMSN in cases with court or administrative orders that stipulate alternative health care coverage to employer-based coverage.

(c) *Mandatory procedures.* The State must have in effect and use procedures that require:

(1) The State agency to use the NMSN to transfer notice of the provision for health care coverage of the child(ren) to the employer.

(2) The State agency to send the NMSN to the employer within 2 business days after the date of entry of an employee who is an obligor in a IV–D case in the State Directory of New Hires.

(3) Employers to transfer the NMSN to the appropriate group health plan providing any such health care coverage for which the child(ren) is eligible (excluding the severable employer withholding notice directing the employer to withhold any mandatory employee contributions to the plan) within 20 business days after the date of the NMSN.

(4) Employers to withhold any obligation of the employee for employee contributions necessary for coverage of the child(ren) and send any amount withheld directly to the plan. If the employee contests such withholding, the employer initiates withholding until such time as the employer receives notice that the contest is resolved.

(5) Employers to notify the State agency promptly whenever the noncustodial parent's employment is terminated in the same manner as required for income withholding cases in accordance with § 303.100(e)(1)(x) of this part.

(d) *Effective date.* This section is effective October 1, 2001, or, if later, the effective date of State laws described in paragraph (a) of this section. Such State laws must be effective no later than the close of the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after October 1, 2001. For States with 2-year legislative sessions, each year of such session would be regarded as a separate regular session.

Note: The following appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4184–01–U

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Appendix

NATIONAL MEDICAL SUPPORT NOTICE

PART A

EMPLOYER WITHHOLDING NOTICE

This Notice is issued under Section 466(a)(19) of the Social Security Act and Section609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 (ERISA).

Issuing Agency: _____ Issuing Agency Address: _____ _____ Date of Notice: _____ Case Number: _____ Telephone Number: _____	Court Name: _____ Date of Support Order: _____ Support Order Number: _____

_____)
Employer/Withholder's Federal EIN Number

_____)
Employer/Withholder's Name

_____)
Employer/Withholder's Address

_____)
Custodial Parent's Name (Last, First, MI)

_____)
Custodial Parent's Mailing Address

_____)
Alternate Recipient/Child(ren)'s Mailing Address (if different from Custodial Parent's)

_____)
_____)
_____)
Name, Mailing Address, and Telephone Number of a Representative of the Alternate Recipient(s)/Child(ren)

RE* _____
Employee/Obligor's Name (Last, First, MI)

_____
Employee/Obligor's Social Security Number

_____
Employee/Obligor's Mailing Address

_____
Substituted Official/Agency Name and Address

Alternate Recipient/Child(ren)'s Name(s)	DOB	SSN
_____	_____	_____
_____	_____	_____
_____+_____	_____	_____

Alternate Recipient/Child(ren)'s Name(s)	DOB	SSN
_____	_____	_____
_____	_____	_____
_____	_____	_____

Type of family group health care coverage required by the order: ___(Basic); ___(Dental); ___(Vision); ___(Prescription drug); ___(Mental health); ___(Other) - _____

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EMPLOYER RESPONSE

(To be completed by Employer, as appropriate)

If either 1 or 2 below applies, indicate here and return this Part A to the Issuing Agency and custodial parent. NO OTHER ACTION IS NECESSARY. If neither 1 nor 2 applies, forward Part B to the appropriate plan administrator(s).

□ 1. Employer does not maintain or contribute to plans providing family health care coverage or the employee is among a class of employees (for example, part-time or non-union) that are not eligible for family health coverage under any group health plan maintained by the employer or to which the employer contributes.

□ 2. Health care coverage is not available because employee is no longer employed by the employer:

Last known address: _____

Last known telephone number: _____

New employer (if known): _____

New employer address: _____

New employer telephone number: _____

□ 3. State or Federal withholding limitations and/or prioritization prevent the withholding from the employee's income of the amount required to obtain coverage under the terms of the plan.

Employer Representative:

Name: _____ Telephone Number: _____

Title: _____ Date: _____

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INSTRUCTIONS TO EMPLOYER

This document serves as notice that the employee identified above is obligated by a court or administrative child support order to provide health care coverage for the child(ren) also identified above. This National Medical Support Notice replaces any Notice that the Issuing Agency has previously served on you with respect to the employee and the children listed on this Notice. Such child(ren) are also referred to as Alternate Recipient(s) in the Notice.

The document consists of **Part A - Employer Withholding Notice** for the employer to withhold any employee contributions required by the group health plan(s) in which the alternate recipient(s) is/are enrolled; and **Part B - Medical Support Notice to the Plan Administrator**, which must be forwarded to the administrator of each group health plan identified by the employer to enroll the eligible alternate recipient(s)/child(ren).

EMPLOYER RESPONSIBILITIES

As the employer of the employee, you are required to:

1. If the individual named above is not your employee, or if family health care coverage is not available, please complete item 1 or 2 of the Employer Response as appropriate, and return it to the Issuing Agency. NO FURTHER ACTION IS NECESSARY.

2. If family health care coverage is available for which the alternate recipient(s)/child(ren) identified above may be eligible, you are required to:

   a. Transfer, not later than 20 business days after the date of this Notice, a copy of **Part B - Medical Support Notice to the Plan Administrator** to the administrator of each appropriate group health plan for which the alternate recipient(s)/child(ren) may be eligible, and

   b. Upon notification from the plan administrator(s) that the alternate recipient(s)/child(ren) is/are enrolled, either

      1) withhold from the employee's income any employee contributions required under each group health plan, in accordance with the applicable law of the employee's principal place of employment and transfer employee contributions to the appropriate plan(s), or

      2) complete item 3 of the Employer Response to notify the Issuing Agency and the parties that enrollment cannot be completed because of prioritization or limitations on withholding.

LIMITATIONS ON WITHHOLDING

The amount withheld cannot exceed ___% of the employee's aggregate disposable weekly earnings. The employer may not withhold more than the lessor of:

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1. The amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C., section 1673(b));

2. The amounts allowed by the State of the employee's principal place of employment; or

3. The amounts allowed for medical support by the child support order.

The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as State, Federal, local taxes; Social Security taxes; and Medicare taxes.

PRIORITY OF WITHHOLDING

If withholding is required for employee contributions to one or more plans under this notice and for a support obligation under a separate notice and available funds are insufficient for withholding for both cash and medical support contributions, the employer must withhold amounts for purposes of cash support and medical support contributions in accordance with the law, if any, of the State of the employee's principal place of employment requiring prioritization between cash and medical support.

DURATION OF WITHHOLDING

The alternate recipient(s)/child(ren) shall be treated as dependents under the terms of the plan. Coverage of an alternate recipient as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA may entitle the alternate recipient to continuation coverage under the plan. The employer must continue to withhold employee contributions and may not disenroll (or eliminate coverage for) the alternate recipient/child(ren) unless:

1. The employer is provided satisfactory written evidence that:

   a. The court or administrative child support order referred to above is no longer in effect; or
   b. The alternate recipient(s)/child(ren) is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan; or

2. The employer eliminates family health coverage for all of its employees.

POSSIBLE SANCTIONS

An employer may be subject to sanctions or penalties imposed under State law and/or ERISA for discharging an employee from employment, refusing to employ, or taking disciplinary action against any employee because of medical child support withholding, or for failing to withhold income, or transmit such withheld amounts to the applicable plan(s), as the Notice directs.

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NOTICE OF TERMINATION OF EMPLOYMENT

In any case in which the above employee's employment with the above employer terminates, the employer must promptly notify the Issuing Agency listed above of such termination. This requirement may be satisfied by sending to the Issuing Agency named above a copy of any notice the employer is required to provide under the continuation coverage provisions of ERISA or the Health Insurance Portability and Accountability Act.

EMPLOYEE LIABILITY FOR CONTRIBUTION TO PLAN

The employee is liable for any employee contributions that are required under the plan(s) for enrollment of the alternate recipient(s)/child(ren) and is subject to appropriate enforcement. The employee may contest enforcement based on a mistake of fact (such as the identity of the obligor). Should an employee contest, the employer must proceed to comply with the employer responsibilities in this Notice until notified to discontinue withholding.

CONTACT FOR QUESTIONS

If you have any questions regarding this Notice, you may contact the Issuing Agency at the address and telephone number listed above.

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NATIONAL MEDICAL SUPPORT NOTICE
PART B
MEDICAL SUPPORT NOTICE TO PLAN ADMINISTRATOR

This Notice is issued under section 466(a)(19) of the Social Security Act and section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 (ERISA). **RECEIPT OF THIS NOTICE CONSTITUTES RECEIPT OF A MEDICAL CHILD SUPPORT ORDER UNDER ERISA SECTION 609(a)(5)(A) and (B).** The rights of the parties and the duties of the plan administrator under this NOTICE are in addition to the existing rights and duties established under such section.

Issuing Agency: _____ Issuing Agency Address: _____ _____ Date of Notice: _____ Case Number: _____ Telephone Number: _____	Court Name: _____ Date of Support Order: _____ Support Order Number: _____

_____)
Employer/Withholder's Federal EIN Number

_____)
Employer/Withholder's Name

_____)
Employer/Withholder's Address

_____)
Custodial Parent's Name (Last, First, MI)

_____)
Custodial Parent's Address

_____)
Alternate Recipient/Child(ren)'s Address (if Different from Custodial Parent's)

_____)
_____)
_____)
Name(s), Mailing Address, and Telephone Number of a Representative of the Alternate Recipient(s)/Child(ren)

RE* _____
Employee/Obligor's Name (Last, First, MI)

_____
Employee/Obligor's Social Security Number

_____
Employee/Obligor's Address

_____
Substituted Official/Agency Name and Address

Alternate Recipient/Child(ren)'s Name(s)	DOB	SSN
_____	_____	_____
_____	_____	_____
_____	_____	_____

Alternate Recipient/Child(ren)'s Name(s)	DOB	SSN
_____	_____	_____
_____	_____	_____
_____	_____	_____

Type of health care coverage required by the order: ___(Basic); ___(Dental); ___(Vision); ___(Prescription drug); ___(Mental health); ___(Other) - _____

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PLAN ADMINISTRATOR RESPONSE

(To be completed by the plan administrator and returned to the Issuing Agency)

This Notice was received by the plan administrator on _____.

1. ☐ **This Notice does not constitute a "qualified medical child support order" because**:
   ☐ The name of the ☐ alternate recipient(s) or ☐ participant is missing.
   ☐ The mailing address of the ☐ alternate recipient(s) or ☐ participant is missing.
   ☐ The alternate recipient(s) is/are at or above the age at which dependents are no longer eligible for coverage under the plan.

2. ☐ **This Notice was determined to be a "qualified medical child support order," on** _____. If the employee is not enrolled, and dependent-only coverage is not available under the plan, the employee is to be enrolled in family coverage as indicated below.

   a. ☐ **There is only one type of coverage provided under the plan.** The alternate recipient(s) is/are included as dependents of the participant under the plan.

   b. ☐ **There is more than one option available under the plan.** The Issuing Agency must select from the available options and return this Part B to the Plan Administrator named below for processing. Each alternate recipient is to be included as a dependent under one of the following options that provide family coverage:

   ☐ (1)_____[if enrolled, participant has elected this option]
   ☐ (2)_____
   ☐ (3)_____

3. **The plan administrator received all information necessary for enrollment on _____(date). Coverage is effective as of _____. Any necessary withholding should commence if permitted under State and Federal withholding and/or prioritization limitations.** The alternate recipient(s) has/have been enrolled in the following option(s):

Name and address of plan or insurance carrier(s):	PIN or Contract number:	Address to submit claims:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Plan Administrator or Representative:
Name: _____ Telephone Number: _____
Title: _____ Date: _____
Address: _____

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INSTRUCTIONS TO PLAN ADMINISTRATOR

This Notice has been forwarded from the employer identified above to you as the plan administrator of a group health plan maintained by the employer (or a group health plan to which the employer contributes) and in which the noncustodial parent/participant identified above is enrolled or is eligible for enrollment.

This Notice serves to inform you that the noncustodial parent/participant is obligated by an order issued by the court or agency identified above to provide health care coverage for the alternate recipient(s)/child(ren) if available under the group health plan(s) as described on **Part B**.

(A) If the participant and alternate recipient(s)/child(ren) and their mailing addresses (or that of a Substituted Official or Agency) are identified above, and if coverage for the alternate recipient(s) is or will become available, this Notice constitutes a "qualified medical child support order" under ERISA, and you must, within 40 business days of the date of this Notice, or sooner if reasonable:

(1) Complete **Part B - Plan Administrator Response** and send it to the Issuing Agency, notify the noncustodial parent/participant named above, each named alternate recipient/child, and the custodial parent that coverage of the alternate recipient(s) is or will become available **(notification of the custodial parent will be deemed notification of the alternate recipient(s) if they reside at the same address)**;

(2) furnish the Issuing Agency and custodial parent a description of the coverage available and the effective date of the coverage;

(3) provide to the custodial parent any forms, documents, or information necessary to effectuate such coverage (including the applicability of creditable coverage under HIPAA):

(4)(a) if no other information or action is required, include the alternate recipient(s) in the available coverage, or,

(b) notify the Issuing Agency and the custodial parent of any additional steps to be taken, and

(5) upon completion of the enrollment information, transfer the applicable information on **Part B** to the employer for a determination that the necessary employee contributions are available.

(B) If within 40 business days of the date of this Notice, or sooner if reasonable, you determine that this Notice does not constitute a "qualified medical child support order," you must complete **Part B - Plan Administrator Response** and send it to the Issuing Agency, and inform the noncustodial parent/participant, custodial parent, and alternate recipient(s) of the specific reasons for your determination.

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UNLAWFUL REFUSAL TO ENROLL

Enrollment of an alternate recipient may not be denied on the ground that: (1) the alternate recipient was born out of wedlock; (2) the alternate recipient is not claimed as a dependent on the participant's Federal income tax return; or (3) the alternate recipient does not reside with the participant or in the plan's service area. All enrollments are to be made without regard to open season restrictions.

PERIOD OF COVERAGE

The alternate recipient(s)/child(ren) shall be treated as dependents under the terms of the plan. Coverage of an alternate recipient as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA may entitle the alternate recipient to continuation coverage under the plan. Once an alternate recipient is enrolled in the plan as directed above, the alternate recipient may not be disenrolled unless:

(1) The plan administrator is provided satisfactory written evidence that either:

(a) the court or administrative child support order referred to above is no longer in effect, or

(b) the alternate recipient is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan;

(2) The employer eliminates family health coverage for all of its employees; or

(3) Any available continuation coverage is not elected, or the period of such coverage expires.

CONTACT FOR QUESTIONS

If you have any questions regarding this Notice, you may contact the Issuing Agency at the address and telephone number listed above.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.J. Res. 76/P.L. 106–93

Waiving certain enrollment requirements for the remainder of the first session of the One Hundred Sixth Congress with respect to any bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2000. (Nov. 10, 1999; 113 Stat. 1310)

H.J. Res. 78/P.L. 106–94

Making further continuing appropriations for the fiscal year 2000, and for other purposes. (Nov. 10, 1999; 113 Stat. 1311)

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*1–100	(869–038–00158–6)	14.00	July 1, 1999
101	(869–038–00159–4)	39.00	July 1, 1999
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43 Parts:			
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45 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 1998, through July 1, 1999. The CFR volume issued as of July 1, 1998, should be retained.