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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.

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 951 and 997

[No. 2000–15]

RIN 3069–AA92

Determination of Appropriate Present-Value Factors Associated With Payments Made by the Federal Home Loan Banks to the Resolution Funding Corporation

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulations to implement provisions of the Gramm-Leach-Bliley Act (Gramm-Leach-Bliley) that changed the methodology for determining the amount of the payments to be made by the Federal Home Loan Banks (Banks) to the Resolution Funding Corporation (REFCORP). These payments are used to pay a portion of the interest owed on bonds issued by REFCORP. Gramm-Leach-Bliley requires each Bank to pay 20 percent of its net earnings each year to REFCORP and requires the Finance Board to adjust the final payment date so that the value of the payments made under the new methodology equals those that were to have been made under prior law. The Finance Board proposed to discount the Banks' payments using appropriate present-value factors selected by the Finance Board in consultation with the Secretary of the Treasury. After carefully considering the comments received on its proposal, the Finance Board has decided to adopt the proposed rule with the technical changes discussed below.

EFFECTIVE DATES: This final rule is effective on April 3, 2000.

FOR FURTHER INFORMATION CONTACT: Joseph A. McKenzie, Deputy Chief Economist, Office of Policy, Research, and Analysis, (202) 408–2845, *mckenziej@fhfb.gov;* Austin J. Kelly, Senior Financial Economist, Office of Policy, Research, and Analysis, (202) 408–2541, *kellya@fhfb.gov;* or Thomas E. Joseph, Attorney-Advisor, (202) 408–2512, *josepht@fhfb.gov.* Staff also can be reached by regular mail at the Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006. A telecommunication device for deaf persons (TDD) is available at (202) 408–2579.

SUPPLEMENTARY INFORMATION:

I. Background Information

As discussed more completely in the proposed rule,[1] the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub. L. 101–73, 103 Stat. 183 (Aug. 9, 1989), established REFCORP to provide funds for the Resolution Trust Corporation (RTC). 12 U.S.C. 1441b. To this end, as of September 20, 1999, REFCORP had issued and had outstanding $29.9 billion in non-callable bonds with maturities ranging from October 15, 2019, to April 15, 2030. FIRREA also amended the Federal Home Loan Bank Act (Bank Act) to require the Banks to pay $300 million annually toward the interest on those bonds. To the extent amounts available from the other statutorily specified sources and the Banks' $300 million are insufficient to pay the annual interest on the REFCORP bonds, the Bank Act directs the United States Department of the Treasury (Treasury) to pay to REFCORP the additional amounts needed to pay the interest. 12 U.S.C. 1441b(f)(2)(E). Treasury has paid more than three-quarters of the annual interest owed on REFCORP bonds.

Gramm-Leach-Bliley changed the Banks' REFCORP assessment from a fixed-dollar $300 million annual payment to an annual payment of 20 percent of each Bank's net earnings. *See* 12 U.S.C. 1441b(f)(2)(C)). Gramm-Leach-Bliley also contains provisions intended to assure that the change in the method of assessing the Banks' REFCORP obligation does not increase or decrease the burden of paying interest on the REFCORP bonds either for the Banks or the Treasury. To implement these provisions of Gramm-Leach-Bliley, the Finance Board proposed a methodology for adjusting the date of the final REFCORP payment due from the Banks. The methodology entails the simulated purchase or sale each quarter of zero-coupon Treasury bonds.[2] As discussed below, after considering the comments received on its proposal, the Finance Board has decided to adopt the methodology for adjusting the final REFCORP payment due from the Banks substantially as proposed. The Finance Board is also adopting the technical amendment to § 951.1 of its regulations, 12 CFR 951.1, as proposed.[3]

II. Comparison of Proposed and Final Rules

A. Comments Received

The Finance Board received five comment letters on its proposed methodology: four from Banks, and one from a national trade association of community banks. All the comments were generally supportive of the Finance Board's proposed methodology. Each of the four Banks, however, proposed that the Finance Board use a zero-coupon bond rate other than that for Treasury instruments in performing the present value calculations. The trade

[1] The proposed rule was published in the **Federal Register** at 65 FR 5447 (Feb. 4, 2000). In that proposal the Finance Board described in some detail the analysis underlying the proposed methodology for adjusting the date of the Banks' final REFCORP payment. As the final rule largely adopts the proposed methodology, the description is not repeated here. Interested parties should read the proposed rule for more complete background information on and the analysis underlying this final rule.

[2] Under the terms of this rule, the Finance Board will obtain from the Treasury's Office of Market Finance interest rates based on estimated market yields on zero-coupon Treasury bonds whose maturities coincide with and bracket the date of the last non-defeased $75 million quarterly payment and apply these rates to Banks' excess or deficit quarterly payments as required by § 997.2 and § 997.3. Because Treasury does not issue marketable zero coupon bonds, the interest rate provided by the Treasury's Office of Market Finance will be based on the current market yield on marketable STRIPS (the principal or interest component of Treasury Separate Trading of Registered Interest and Principal of Securities program). As the yields on marketable STRIPS are quoted on a semiannually compounding basis, the Office of Market Finance will convert the semi-annual yields to their quarterly equivalents when necessary. The Treasury's Office of Market Finance will certify these rates to the Finance Board, as it does for different interest rates for a number of other agencies.

[3] The Finance Board recently renumbered and reorganized its regulations, effective February 18, 2000. *See* 65 FR 8253 (Feb. 18, 2000). Prior to the effective date of this change, § 951.1 of the Finance Board's regulations was designated as § 960.1, 12 CFR 960.1.

association requested that the Finance Board publish the results of its quarterly determination. No comments were received on the proposed technical amendment to § 951.1 of the Finance Board regulations.

Each of the four Banks suggested that the Finance Board modify the calculation set forth in § 997.2 and § 997.3 by replacing the referenced Treasury zero-coupon interest rate with a different, and higher, interest rate. The use of a higher interest rate would have the effect of reducing the present value of the Banks' total REFCORP obligation whenever the Banks' actual quarterly REFCORP payments exceed $75 million.[4] The suggested alternative interest rates were: the rate on REFCORP bonds, the Bank System's cost of funds, and an average of Treasury and agency zero-coupon bond rates. The various arguments made by the Banks to support the requested change can be generally summarized as follows: (1) The alternative rates better reflect the Banks' cost of funds or are more appropriate for discounting the Banks' obligation to pay on the REFCORP bonds; (2) use of the Treasury rate would raise the burden of the REFCORP payment if the Banks' aggregate annual REFCORP payments were to exceed $300 million, as is expected at least in the near future; and (3) the expected reduction in Treasury's issuance of government debt and the recently announced plans by Treasury to retire outstanding government debt will result in artificially low Treasury rates, relative to other rates, or will make it difficult to find accurate Treasury rates to use as the referenced zero-coupon rate for the purposes of making the calculations set forth in this rule.

The Finance Board has considered the arguments made by the commenters but continues to believe that the zero-coupon Treasury rate remains the most appropriate rate for the use in the calculation set forth in § 997.2 or § 997.3. Although the Banks have paid $300 million annually to REFCORP in the past, and are likely to pay well in excess of $400 million in 2000, the total annual interest obligation to REFCORP bondholders exceeds $2.5 billion, of which the Treasury pays in excess of $2.0 billion. Therefore, the effect of an excess or deficit quarterly payment by the Banks, as those terms are defined in § 977.1, will be to decrease, in the case of an excess quarterly payment, or increase, in the case of a deficit quarterly payment, the payment due from Treasury in the current quarter, but to have the opposite effect on payments made by Treasury in future quarters. For example, an excess quarterly payment can be viewed, in effect, as the Banks ''lending'' to Treasury to reduce Treasury's current expenditures for interest on REFCORP bonds, and as Treasury ''paying back'' the Banks by paying amounts that would have been due from the Banks for interest on the REFCORP bonds in the future. Similarly, a deficit quarterly payment can be viewed, in effect, as the Banks ''borrowing'' from Treasury to meet current REFCORP obligations and then ''paying back'' Treasury in the future by extending the term of the REFCORP obligation.[5] Given the overall effects of excess or deficit quarterly payments on Treasury's residual obligation to REFCORP, the Finance Board believes that the Treasury rates are the most appropriate discount rates to use in the calculations set forth in § 997.2 and § 997.3.

Several of the comment letters raised technical issues about the use of Treasury interest rates, indicating that certain factors in the bond market may cause the yield on a particular Treasury issue to be temporarily or ''artificially'' high or low. For example, ''on-the-run'' issues (*i.e.,* the most recently auctioned bond of a particular standard maturity such as the 10-year or 30-year Treasury bond) can trade at a rate significantly lower rate than an adjacent issue, as one Bank noted occurred recently in the 30-year Treasury market.

In response to this comment, there are three observations. First, temporary technical factors may either increase of decrease the interest rates on Treasury issues, and it is impossible to predict the net effect these technical factors will have over the life of the REFCORP obligation. Second, technical factors that have an effect on the Treasury bond market are likely to have a larger effect on non-Treasury bonds because such instruments are far less liquid and potentially subject to widening and narrowing credit spreads. Third, ''on-the-run'' Treasury issues, the rates of which may be artificially low, will seldom be used in the calculations set forth in this rule. For example, if the benchmark quarterly payment to be ''defeased'' and the maturity date for the applicable zero-coupon Treasury bond used for that purpose are exactly thirty years from the date of the Banks' actual quarterly payment date, an ''on-the-run'' Treasury bond would be used in the calculation. However, the interest rate used to discount the next outstanding benchmark quarterly payment would necessarily be for a Treasury bond with a term of less than 30 years, and therefore would not be an ''on-the-run'' issue. The next ''on-the-run issue'' is the 10-year Treasury bond, which will not be the appropriate benchmark to use in the calculations set forth in this rule for some time.

Several comments raise the issue about the potential refunding of the United States government debt. Specifically, commenters expressed concern that if the United States budget surpluses occur as projected, the publicly held debt would disappear around 2015, and there would be no Treasury bonds to use as a benchmark. The Finance Board does not believe that this argument requires it to use a different interest rate, as even under somewhat conservative assumptions, the Banks' REFCORP obligation would be fully satisfied between 2013 and 2015, which roughly coincides with the projected date of the elimination of the publicly held debt.

Furthermore, the use of Treasury zero-coupon rates is not unique to the REFCORP calculation. There are other programs and agencies that use these rates. If the Treasury retires publicly held debt, then the Finance Board along with these other agencies and programs would have to determine successor discount factors. Gramm-Leach-Bliley provides the Finance Board with sufficient authority to determine successor discounting factors in consultation with the Secretary of the Treasury. Thus, the Finance Board could reconsider the use of the zero-coupon Treasury rate, if and when it appears imminent that a benchmark Treasury rate would not be available, or would not provide an accurate reference interest rate for the REFCORP calculations.

More generally, the Finance Board believes that the actual effects of the planned reduction of outstanding government debt on the Treasury bond market remain uncertain at this time. In addition, although reduced issuance by

[4] By contrast, use of one of the higher, alternative interest rates rather than the Treasury rate would increase the present value of Treasury's share of the interest payments paid on REFCORP bonds, if the Banks total quarterly REFCORP payments were to exceed $75 million.

[5] As discussed in the preamble to the proposed rule, the use of zero-coupon Treasury bonds is consistent with Office of Management and Budget (OMB) Circular A–11, which implements the Federal Credit Reform Act of 1990 (FCRA). Under the FCRA, cash flows stemming form direct government loans and government loan guarantees are discounted by the interest rate on zero-coupon Treasury securities with the same maturity as each quarter's projected cash flow. Thus, the approach adopted by this rule is consistent with the budgetary treatment of government loan activities. Finance Board staff have informally discussed this methodology with staff from OMB and the Treasury, and they generally supported the overall approach.

Treasury of government debt may result in declining yields on Treasury bonds, these rates remain market rates and are not ''artificial.'' The fact that some commenters believe that the rates on Treasury bonds may be declining does not alter the Finance Board's underlying economic rationale for viewing the Treasury zero-coupon bond rate as the most appropriate present value factor to use for the purposes of this rule. Moreover, Treasury staff has generally endorsed the Finance Board's use of the zero-coupon Treasury bond rate for these calculations.

The trade association requested that the Finance Board regularly publish the results of the calculation and its determination of the new termination date for the REFCORP obligation. The issue of publishing the determination made pursuant to the Gramm-Leach-Bliley requirements was not directly addressed in the proposed rule. However, the Finance Board expects that, after it has reviewed the results of the calculations made in accordance with § 997.4, it will publish its determination as to the new termination date for the Banks' REFCORP obligation in the quarterly and annual combined financial report of the Bank System.[6]

B. Consultations With Treasury

Gramm-Leach-Bliley provides that the Finance Board shall select appropriate present-value factors for making the statutorily required determination in ''consultation with the Secretary of the Treasury.'' 12 U.S.C. 1441b(f)(2)(C)(ii). Before proposing this rule, Finance Board staff met with staff from OMB and Treasury. The Finance Board also provided a copy of the proposed rule to the Secretary of the Treasury. In response, staff from Treasury has informally suggested clarifications to certain aspects of the Finance Board's proposed rule. Primarily, Treasury staff wished to make clear its general approach to estimating the rates that it will provide to the Finance Board, *see* n. 2, *supra.,* and also asked that the final rule clarify the nature of the REFCORP's role in performing the calculations described in § 997.2 and § 997.3. On this latter point, the Finance Board reiterates that REFCORP has agreed to conduct the ministerial task of performing the calculations specifically described in § 997.2 and § 997.3, which will form the basis of the quarterly present value determination. The Finance Board will make the actual quarterly present value determination, after reviewing the results of REFCORP's calculation, as required by § 997.2 and § 997.3. *See* 65 FR at 5451.

In addition, the Finance Board has made a slight change to the wording of § 997.4(c) concerning the maintenance of the official record of the quarterly present value determinations, because the proposed wording could be read to imply that REFCORP would make the present value determination required by Gramm-Leach-Bliley. As proposed, the provisions stated that the Finance Board will keep the official records of all quarterly present value determinations ''made under this part by either the REFCORP or the Finance Board.'' To avoid any confusion, the Finance Board has deleted the phrase ''by either the REFCORP or the Finance Board'' from the final version of § 997.4(c). This change does not alter the purpose of the provision, which is to make clear that the Finance Board will maintain the official record relating to the quarterly present value determinations. *See id.*

Treasury staff also commented that the maturity date for zero-coupon bonds maturing after 2006 will not always correspond to the date of the benchmark quarterly payment. In such a situation, the Finance Board expects that Treasury will provide an estimated interest rate on a zero-coupon bond with a maturity date that is closest to that of the benchmark quarterly payment. The effect of this change on the present value calculation should be minimal. The Finance Board has also added a definition of ''estimated interest rate'' to § 997.1 that makes clear that the estimated interest rate will be for a zero-coupon Treasury bond that matures on the date of the quarterly benchmark payment that is being defeased or, if there is no zero-coupon Treasury bond that matures on that date, then on the date that is closest to the date of the quarterly benchmark payment being defeased. In addition, after adding this definition, the repetitive descriptions of the estimated interest rate that had appeared elsewhere in the rule, especially in § 997.2 and § 997.3, are no longer necessary and have been deleted.

C. Effective Date

This rule is effective immediately on publication so that the new methodology may be applied without delay to the first REFCORP payment that will be made by the Banks under the new Gramm-Leach-Bliley provisions on April 17, 2000. Moreover, the implementation of this final rule requires no action or change in activity on the part of the Banks or other parties. The rule merely sets forth a methodology that will be used by the Finance Board in determining the new end date of the Banks' REFCORP obligation as required by Gramm-Leach-Bliley. Thus, the Finance Board finds that it has good cause to adopt this rule with an effective date that is immediate upon publication in the **Federal Register**. *See* 5 U.S.C. 553(d).

After considering all the comments that it received, and for the reasons discussed above and in the preamble to the proposed rule, the Finance Board has decided to adopt new Part 997, with the changes discussed above, and the amendment to § 951.1 of the Finance Board's regulations as proposed.

III. Regulatory Flexibility Act

The final rule applies only to the Finance Board and to the Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that this final rule will not have a significant economic effect on a substantial number of small entities.

IV. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects

12 CFR Part 951

Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

12 CFR Part 997

Federal home loan banks, Resolution funding corporation.

For the reasons set forth in the preamble, the Finance Board hereby amends 12 CFR part 951 and adds 12 CFR part 997 to read as follows:

PART 951—AFFORDABLE HOUSING PROGRAM

1. The authority citation for part 951 continues to read as follows:

Authority: 12 U.S.C. 1430(j)

2. Amend § 951.1 by removing the words ''pro rata share of the'' from the definition of the term ''net earnings of a Bank''.

3. Add part 997 to subchapter L to read as follows:

[6] On January 4, 2000, the Finance Board published a proposed rule for comment that would assign certain functions now performed by the Finance Board, including preparation of the Bank system's annual and quarterly financial reports, to the Office of Finance. See 65 FR 324,335 (Jan. 4, 2000) (proposed § 941.2(c)).

PART 997—RESOLUTION FUNDING CORPORATION OBLIGATIONS OF THE BANKS

Sec.
997.1 Definitions.
997.2 Reduction of the payment term.
997.3 Extension of the payment term.
997.4 Calculation of the quarterly present-value determination.
997.5 Termination of the obligation.

Authority: 12 U.S.C. 1422b(a) and 1441b(f).

§ 997.1 Definitions.

As used in this part:

Actual quarterly payment means the quarterly amount paid by the Banks to fulfill the Banks' obligation to pay toward interest owed on bonds issued by the REFCORP. The amount will equal the aggregate of 20 percent of the quarterly net earnings of each Bank, or such other amount assessed in accordance with the Act and the regulations adopted thereunder.

Benchmark quarterly payment means $75 million, or such amount that may result from adjustments required by calculations made in accordance with §§ 997.2 and 997.3.

Current benchmark quarterly payment means the benchmark quarterly payment that corresponds to the date of the actual quarterly payment.

Deficit quarterly payment means the amount by which the actual quarterly payment falls short of the current benchmark quarterly payment.

Estimated interest rate means the interest rate provided to the Finance Board by the Department of the Treasury on a zero-coupon Treasury bond, the maturity of which is the same as the date of the benchmark quarterly payment that is being defeased, or if no bond matures on that date, then is the date closest to the date of the payment being defeased.

Excess quarterly payment means the amount by which the actual quarterly payment exceeds the current benchmark quarterly payment.

Quarterly present-value determination means the quarterly calculation that will determine the extent to which an excess quarterly payment or deficit quarterly payment alters the term of the Banks' obligation to the REFCORP. This determination will fulfill the requirements of 12 U.S.C 1441b(f)(2)(C)(ii), *as amended by* Pub. L. 106–102, sec. 607, 113 Stat.1456–57.

REFCORP means the Resolution Funding Corporation established in 12 U.S.C. 1441b.

§ 997.2 Reduction of the payment term.

(a) *Generally.* The Finance Board shall shorten the term of the obligation of the Banks to make payments toward the interest owed on bonds issued by the REFCORP for each quarter in which there is an excess quarterly payment.

(b) *Excess quarterly payment.* Where there is an excess quarterly payment, the quarterly present-value determination shall be as follows:

(1) The future value of the excess quarterly payment shall be calculated using the estimated interest rate corresponding to the last non-defeased benchmark quarterly payment.

(2) The future value calculated in paragraph (b)(1) of this section shall be subtracted from the amount of the last non-defeased quarterly benchmark payment.

(3) If the difference resulting from the calculation in paragraph (b)(2) of this section is greater than zero, then the last non-defeased quarterly benchmark payment is reduced by the future value of the excess quarterly payment.

(4) If the difference resulting from the calculation in paragraph (b)(2) of this section is less than zero, then the last non-defeased quarterly benchmark payment shall be defeased and the payment term shall be shortened.

(5) The amount of the excess quarterly payment that has not already been applied to defeasing the payment under paragraph (b)(4) of this section shall be applied toward defeasing the last non-defeased quarterly benchmark payment using the applicable estimated interest rate.

§ 997.3 Extension of the payment term.

(a) *Generally.* The Finance Board will extend the term of the obligation of the Banks to make payments toward interest owed on bonds issued by the REFCORP for each calendar quarter in which there is a deficit quarterly payment.

(b) *Deficit quarterly payment.* Where there is a deficit quarterly payment, the quarterly present-value determination shall be as follows:

(1) The future value of the deficit quarterly payment shall be calculated using the estimated interest rate corresponding to the last non-defeased benchmark quarterly payment, or to the first quarter thereafter if the last non-defeased benchmark quarterly payment already equals $75 million.

(2) The future value calculated in paragraph (b)(1) of this section shall be added to the amount of the last non-defeased quarterly benchmark payment if that sum is $75 million or less.

(3) If the sum calculated in paragraph (b)(2) of this section exceeds $75 million, the last non-defeased quarterly benchmark payment will become $75 million, and the quarterly benchmark payment term will be extended.

(4) The extended payment will equal the future value of the amount of the deficit quarterly payment that has not already been applied to raising the quarterly benchmark payment to $75 million under paragraph (b)(3) of this section, using the estimated interest rate corresponding to the date of the extended benchmark quarterly payment.

(c) *Term beyond maturity.* The benchmark quarterly payment term may be extended beyond April 15, 2030, if such extension is necessary to ensure that the value of the aggregate amounts paid by the Banks exactly equals the present value of an annuity of $300 million per year that commences on the date on which the first obligation of the REFCORP was issued and ends on April 15, 2030.

§ 997.4 Calculation of the quarterly present-value determination.

(a) *Applicable interest rates.* The Finance Board shall obtain from the Department of the Treasury the applicable estimated interest rates and provide those rates to the REFCORP so that the REFCORP can perform the calculations required under §§ 997.2 and 997.3.

(b) *Calculation by the Finance Board.* If § 997.3 requires that the term for the Banks' actual quarterly payments extend beyond April 15, 2030 or if, for any reason, the REFCORP is unable to perform the calculations or to provide the Finance Board with the results of the calculations, the Finance Board shall make all calculations required under this part.

(c) *Records.* The Finance Board will maintain the official record of the results of all quarterly present-value determinations made under this part.

§ 997.5 Termination of the obligation.

(a) *Generally.* The Banks' obligation to the REFCORP, or to the Department of the Treasury if the term of that obligation extends beyond April 15, 2030, will terminate when the aggregate actual quarterly payments made by the Banks exactly equal the present value of an annuity that commences on the date on which the first obligation of the REFCORP was issued and ends on April 15, 2030.

(b) *Date of the final payment.* The aggregate actual quarterly payments made by the Banks exactly equal the present value of the annuity described in paragraph (a) of this section when the value of any remaining benchmark quarterly payment(s), after the benchmark quarterly payments have been adjusted as required by §§ 997.2 and 997.3, exactly equals the actual quarterly payment.

Dated: March 22, 2000.

By the Board of Directors of the Federal Housing Finance Board:

Bruce A. Morrison,

Chairman.

[FR Doc. 00–8116 Filed 3–31–00; 8:45 am]

BILLING CODE 6725–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Program

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: This final rule would implement Public Law 106–22, enacted on April 27, 1999, which establishes new rules for the loan loss reserve fund which an intermediary must maintain to participate in SBA's microloan program.

DATE: This rule is effective on April 3, 2000.

FOR FURTHER INFORMATION CONTACT: Jody Raskind, 202–205–6497.

SUPPLEMENTARY INFORMATION: Public Law 106–22, enacted on April 27, 1999, amended section 7(m) of the Small Business Act (15 U.S.C. 636(7)(m)) in order to change the requirements for the loan loss reserve fund (LLRF) which each intermediary in the SBA's microloan program must maintain. The LLRF is an interest-bearing deposit account at a bank. An intermediary must establish an LLRF to pay any shortage in its day-to-day revolving account caused by delinquencies or losses on microloans it makes to qualified small business borrowers. An intermediary must maintain the LLRF until it repays all obligations it owes to the SBA.

On July 26, 1999, SBA published a proposed rule in the **Federal Register** (64 FR 40310). Since SBA received no comments, it is publishing in final the rule as proposed and making it effective on the date of publication in the **Federal Register**.

Under the present rule, an intermediary, during its first year in the microloan program, must maintain its LLRF at a level equal to at least 15 percent of the total outstanding balance of notes receivable owed to it by its microloan borrowers (Portfolio). Thereafter, the minimum balance that an intermediary must maintain in its LLRF must be the percent of its Portfolio equal to its actual average loan loss rate after its first year in the microloan program. The maximum level of the LLRF, under the present rule, cannot exceed 15 percent of the Portfolio. There is no prescribed minimum level.

Under the final rule, until the intermediary is in the microloan program for at least five years, it would be required to maintain a balance on deposit in its LLRF equal to 15 percent of its Portfolio. After an intermediary is in the microloan program for five years, it may request SBA's Associate Administrator for Financial Assistance (AA/FA) to grant the intermediary's request to reduce the percentage of its Portfolio which it must maintain in its LLRF to an amount equal to its actual average loan loss rate during the preceding five year period. The AA/FA would review the intermediary's annual loss rate for that five-year period and determine whether he or she should grant the intermediary's request. The AA/FA could not reduce the loan loss reserve to under ten percent of the Portfolio.

Under the final rule, to get a reduction in its loan loss reserve, an intermediary must demonstrate to the satisfaction of the AA/FA that (1) its average annual loss rate during the preceding five years is under fifteen percent, and (2) no other factors exist that might impair its ability to repay all obligations which it may owe to SBA under the microloan program.

Compliance With Executive Orders 13132, 12988 and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

This final rule does not constitute a significant rule within the meaning of Executive Order 12866, since it is not likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy.

SBA has determined that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. SBA estimates that there are a total of 130 microintermediaries who are small entities that will be affected by this rule. However, SBA does not believe that this rule will have a significant economic impact because this rule relates only to Microloan Program intermediarie's internal accounting procedures and is not expected to have any economic effect.

SBA has determined that this final rule does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. chapter 35.

For purposes of Executive Order 13132, SBA has determined that this final rule has no federalism implications.

For purposes of Executive Order 12988, SBA certifies that this final rule is drafted, to the extent practicable, to accord with the standards set forth in section 3 of that Order.

List of Subjects in 13 CFR Part 120

Loan programs—business.

For the reasons stated in the preamble, under the authority in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), the Small Business Administration amends 13 CFR part 120 as follows:

PART 120—BUSINESS LOANS

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636(a) and (h).

2. Amend § 120.710 by revising paragraphs (b) and (c) and by adding paragraphs (d) and (e) to read as follows:

§ 120.710 What is the Loan Loss Reserve Fund?

* * * * *

(b) *Level of Loan Loss Reserve Fund.* Until it is in the Microloan program for at least five years, an Intermediary must maintain a balance on deposit in its LLRF equal to 15 percent of the outstanding balance of the notes receivable owed to it by its Microloan borrowers (''Portfolio'').

(c) *SBA review of Loan Loss Reserve Fund.* After an Intermediary has been in the Microloan program for five years, it may request SBA's Associate Administrator for Financial Assistance (''AA/FA'') to reduce the percentage of its Portfolio which it must maintain in its LLRF to an amount equal to the actual average loan loss rate during the preceding five-year period. Upon receipt of such request, the AA/FA will review the Intermediary's annual loss rate for the most recent five-year period preceding the request.

(d) *Reduction of Loan Loss Reserve Fund.* The AA/FA has the authority to reduce the percentage of an Intermediary's Portfolio that it must maintain in its LLRF to an amount equal to the actual average loan loss rate during the preceding five-year period. The AA/FA can not reduce the LLRF to less than ten percent of the Portfolio.

(e) *What must an intermediary demonstrate to get a reduction in Loan Loss Reserve Fund?* To get a reduction in its LLRF, an Intermediary must demonstrate to the satisfaction of the AA/FA that:

(1) Its average annual loss rate during the preceding five years is less than fifteen percent, and

(2) No other factors exist that may impair the Intermediary's ability to repay all obligations which it owes to the SBA under the Microloan program.

Dated: March 24, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–8117 Filed 3–31–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA–200C]

Schedules of Controlled Substances: Scheduling of Gamma Hydroxybutyric Acid Into Schedule I; Correction

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations (DEA–200F) which were published on Monday, March 13, 2000 (65 FR 13235). These regulations relate to the placement of gamma hydroxybutyric acid (GHB) and its salts, isomers and salts of isomers into Schedule I of the Controlled Substances Act pursuant to Public Law 106–172.

EFFECTIVE DATE: April 3, 2000.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, (202) 307–7183.

SUPPLEMENTARY INFORMATION: The final regulations that are the subject of these corrections amend title 21, Code of Federal Regulations (CFR), chapter II. As published, the final regulations contained errors that could cause confusion. Specifically, the final regulations published on March 13, 2000 (65 FR 13235) did not take into account the amendment of 21 CFR 1308.13 that was included in a Final Rule published by DEA on July 13, 1999 (64 FR 37673), which became effective on August 12, 1999.

Accordingly, the publication on March 13, 2000, of the final regulations to amend part 1308 which were the subject of **Federal Register** document 00–5925 (65 FR 13235), is corrected as follows:

PART 1308—[CORRECTED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. On page 13238, in the third column, correct amendatory instruction #3 to read as follows:

* * * * *

3. Section 1308.13 is amended by redesignating the existing paragraphs (c)(5) through (c)(12) as (c)(6) through (c)(13) and by adding a new paragraph (c)(5) to read as follows:

* * * * *

Dated: March 27, 2000.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 00–8047 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 581

[AR 15–185]

Army Board for Correction of Military Records

AGENCY: Assistant Secretary of the Army for Manpower and Reserve Affairs, DOD.

ACTION: Final rule.

SUMMARY: This final rule is a revision of the regulation on the Army Board for Correction of Military Records. This revision updates information on the policy and procedures for the operation of the Army Board for Correction of Military Records; implements that portion of 10 U.S.C. 1034, and that portion of Department of Defense Directive (DODD) 7050.6, Military Whistleblower Protection, that pertain to actions by the Army Board for Correction of Military Records; implements Department of Defense Instruction (DODI) 1336.6, Correction of Military Records; prescribes DD Form 149, Application for Correction of Military Record, under the provisions of 10 U.S.C. 1552 and eliminates those portions pertaining to the process of applying to the Army Board for Correction of Military Records, transferring them to a Department of the Army Pamphlet.

EFFECTIVE DATE: March 29, 2000.

ADDRESSES: Department of the Army, The Army Review Boards Agency, ATTN: SFMR–RBR, 1941 Jefferson Davis Highway, Arlington, VA 22202–4508.

FOR FURTHER INFORMATION CONTACT: Ms. Mary L. Howell, Military Personnel Management Specialist, 703–607–1612, FAX 703–602–0935, email address: howelml@hqda.army.mil.

SUPPLEMENTARY INFORMATION:

a. Background

Basic revised information on Army Board for Correction of Military Records was previously published in the **Federal Register**, Volume 63, No. 188, pages 51875–51878, September 29, 1998 for public comment.

b. Comments and Responses

Comment: Only one respondent provided comment. The respondent objected to the authority of the ABCMR staff to review and reject requests for reconsideration without Board consideration.

Response: The respondent had a different interpretation of the ABCMR staff's authority and a different definition of a ''request for reconsideration'' which was noted. The staff in its administrative review can only reject a request for reconsideration if it fails to meet the published criteria for a proper request for reconsideration. There were no changes in policy made as a result of the respondent's comments.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, this final rule will not have an annual effect on the economy of $100 million or have a significant impact on a substantial number of small entities. The final rule only concerns the correction of information in Federal records that pertain to individuals.

Paperwork Reduction Act

In compliance with The Paperwork Reduction Act, information collection is required on Department of Defense Form 149 titled ''Application for Correction of Military Record''. The form is necessary to identify specific types of information in support of the Army Board requirements. The form was approved previously by the Office of Management Budget (OMB) and assigned OMB Control No. 0704–0003.

Executive Order 12612, Federalism

This final rule has no significant federalism implications to warrant preparation of a Federalism Assessment under the principles and criteria in E.O. 12612.

Executive Order 12630, Government Actions and Interference With Constitutionally Protected Property Rights

This final rule is issued with respect to a military function of the Defense Department and the provisions of E.O. 12630 or the Private Property Rights Act do not apply.

Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action pursuant to Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

Executive Order 12875, Enhancing the Intergovernmental Partnership

This final rule does not impose non statutory unfunded mandates on small governments and is not subject to the requirements of the executive order.

Executive Order 12988, Civil Justice Reform

This final rule is in compliance with the provisions and requirements of E.O. 12988.

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

This final rule is issued with respect to a military function of the Defense Department and the provisions of E.O. 13045 do not apply.

Unfunded Mandates Act

This final rule does not impose an enforceable duty upon the private sector nor does it impose unfunded mandates on small governments and is not subject to the requirements of the Unfunded Mandates Reform Act.

National Environmental Policy Act

This final rule will not have a significant impact to the human environment, and preparation of an environmental impact statement is not required.

Submission to Congress and the Comptroller General of the General Accounting Office

Pursuant to Section 801(a)(1)(A) of the Administrative Procedure Act as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army will submit a report containing this rule to the U.S. Senate, House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of Section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 32 CFR Part 581

Administrative practice and procedure, Archives and Records, Military Personnel.

Accordingly, part 581 is amended as follows:

PART 581—[AMENDED]

1. The authority citation for part 581 is revised to read as follows:

Authority: 10 U.S.C. 1552, 1553, 1554, 3013, 3014, 3016; 38 U.S.C. 3103(a).

2. Section 581.3 is revised to read as follows:

§ 581.3 Army Board for Correction of Military Records.

(a) *General*—(1) *Purpose.* This section prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the Army Board for Correction of Military Records (ABCMR).

(2) *Statutory authority.* Title 10 U.S.C Section 1552, Correction of Military Records: Claims Incident Thereto, is the statutory authority for this regulation.

(b) *Responsibilities.* (1) *The Secretary of the Army.* The Secretary of the Army will oversee the operations of the ABCMR. The Secretary will take final action on applications, as appropriate.

(2) *The ABCMR Director.* The ABCMR Director will manage the ABCMR's day-to-day operations.

(3) *The chair of an ABCMR panel.* The chair of a given ABCMR panel will preside over the panel, conduct a hearing, maintain order, ensure the applicant receives a full and fair opportunity to be heard, and certify the written record of proceedings in pro forma and formal hearings as being true and correct.

(4) *The ABCMR members.* The ABCMR members will—

(i) Review all applications that are properly before them to determine the existence of error or injustice.

(ii) If persuaded that material error or injustice exists, and that sufficient evidence exists on the record, direct or recommend changes in military records to correct the error or injustice.

(iii) Recommend a hearing when appropriate in the interest of justice.

(iv) Deny applications when the alleged error or injustice is not adequately supported by the evidence, and when a hearing is not deemed proper.

(v) Deny applications when the application is not filed within prescribed time limits and when it is not in the interest of justice to excuse the failure to file in a timely manner.

(5) *The director of an Army records holding agency.* The director of an Army records holding agency will—

(i) Take appropriate action on routine issues that may be administratively corrected under authority inherent in the custodian of the records and that do not require ABCMR action.

(ii) Furnish all requested Army military records to the ABCMR.

(iii) Request additional information from the applicant, if needed, to assist the ABCMR in conducting a full and fair review of the matter.

(iv) Take corrective action directed by the ABCMR or the Secretary of the Army.

(v) Inform the Defense Finance and Accounting Service (DFAS), when appropriate; the applicant; applicant's counsel, if any; and interested Members of Congress, if any, after a correction is complete.

(vi) Return original records of the soldier or former soldier obtained from the Department of Veterans Affairs (VA).

(6) *The commanders of Army Staff agencies and commands.* The commanders of Army Staff agencies and commands will—

(i) Furnish advisory opinions on matters within their areas of expertise upon request of the ABCMR, in a timely manner.

(ii) Obtain additional information or documentation as needed before providing the opinions to the ABCMR.

(iii) Provide records, investigations, information, and documentation upon request of the ABCMR.

(iv) Provide additional assistance upon request of the ABCMR.

(v) Take corrective action directed by the ABCMR or the Secretary of the Army.

(7) *The Director, Defense Finance and Accounting Service (DFAS).* At the request of the ABCMR staff, the Director, DFAS, will—

(i) Furnish advisory opinions on matters within the DFAS area of expertise upon request.

(ii) Obtain additional information or documentation as needed before providing the opinions.

(iii) Provide financial records upon request.

(iv) On behalf of the Army, settle claims that are based on ABCMR final actions.

(v) Report quarterly to the ABCMR Director on the monies expended as a result of ABCMR action and the names of the payees.

(c) *ABCMR establishment and functions.* (1) *ABCMR establishment.* The ABCMR operates pursuant to law (10 U.S.C. 1552) within the Office of the Secretary of the Army. The ABCMR

consists of civilians regularly employed in the executive part of the Department of the Army (DA) who are appointed by the Secretary of the Army and serve on the ABCMR as an additional duty. Three members constitute a quorum.

(2) *ABCMR functions.* (i) The ABCMR considers individual applications that are properly brought before it. In appropriate cases, it directs or recommends correction of military records to remove an error or injustice.

(ii) When an applicant has suffered reprisal under the Military Whistleblower Protection Act 10 U.S.C. 1034 and Department of Defense Directive (DODD) 7050.6, the ABCMR may recommend to the Secretary of the Army that disciplinary or administrative action be taken against any Army official who committed an act of reprisal against the applicant.

(iii) The ABCMR will decide cases on the evidence of record. It is not an investigative body. The ABCMR may, in its discretion, hold a hearing (sometimes referred to as an evidentiary hearing or an administrative hearing in 10 U.S.C. 1034 and DODD 7050.6) or request additional evidence or opinions.

(d) *Application procedures*—(1) *Who may apply.* (i) The ABCMR's jurisdiction under 10 U.S.C. 1552 extends to any military record of the DA. It is the nature of the record and the status of the applicant that define the ABCMR's jurisdiction.

(ii) Usually applicants are soldiers or former soldiers of the Active Army, the U.S. Army Reserve (USAR), and in certain cases, the Army National Guard of the United States (ARNGUS) and other military and civilian individuals affected by an Army military record. Requests are personal to the applicant and relate to military records. Requests are submitted on DD Form 149 (Application for Correction of Military Record under the Provisions of 10 U.S.C. 1552). Soldiers need not submit applications through their chain of command.

(iii) An applicant with a proper interest may request correction of another person's military records when that person is incapable of acting on his or her own behalf, missing, or deceased. Depending on the circumstances, a child, spouse, parent or other close relative, heir, or legal representative (such as a guardian or executor) of the soldier or former soldier may be able to demonstrate a proper interest. Applicants must send proof of proper interest with the application when requesting correction of another person's military records.

(2) *Time limits.* Applicants must file an application within 3 years after an alleged error or injustice is discovered or reasonably should have been discovered. The ABCMR may deny an untimely application. The ABCMR may excuse untimely filing in the interest of justice.

(3) *Administrative remedies.* The ABCMR will not consider an application until the applicant has exhausted all administrative remedies to correct the alleged error or injustice.

(4) *Stay of other proceedings.* Applying to the ABCMR does not stay other proceedings.

(5) *Counsel.* (i) Applicants may be represented by counsel, at their own expense.

(ii) See DODD 7050.6 for provisions for counsel in cases processed under 10 U.S.C. 1034.

(e) *Actions by the ABCMR Director and staff.* (1) *Criteria.* The ABCMR staff will review each application to determine if it meets the criteria for consideration by the ABCMR. The application may be returned without action if—

(i) The applicant fails to complete and sign the application.

(ii) The applicant has not exhausted all other administrative remedies.

(iii) The ABCMR does not have jurisdiction to grant the requested relief.

(iv) No new evidence was submitted with a request for reconsideration.

(2) *Burden of proof.* The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.

(3) *ABCMR consideration.* (i) A panel consisting of at least three ABCMR members will consider each application that is properly brought before it. One panel member will serve as the chair.

(ii) The panel members may consider a case on the merits in executive session or may authorize a hearing.

(iii) Each application will be reviewed to determine—

(A) Whether the preponderance of the evidence shows that an error or injustice exists and—

(*1*) If so, what relief is appropriate.

(*2*) If not, deny relief.

(B) Whether to authorize a hearing.

(C) If the application is filed outside the statute of limitations and whether to deny based on untimeliness or to waive the statute in the interest of justice.

(f) *Hearings.* ABCMR hearings. Applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

(g) *Disposition of applications.* (1) *ABCMR decisions.* The panel members' majority vote constitutes the action of the ABCMR. The ABCMR's findings, recommendations, and in the case of a denial, the rationale will be in writing.

(2) *ABCMR final action.* (i) Except as otherwise provided, the ABCMR acts for the Secretary of the Army, and an ABCMR decision is final when it—

(A) Denies any application (except for actions based on reprisals investigated under 10 U.S.C. 1034).

(B) Grants any application in whole or in part without a hearing when—

(*1*) The relief is as recommended by the proper staff agency in an advisory opinion; and

(*2*) Is unanimously agreed to by the ABCMR panel; and

(*3*) Does not involve an appointment or promotion requiring confirmation by the Senate.

(ii) The ABCMR will forward the decisional document to the Secretary of the Army for final decision in any case in which—

(A) A hearing was held.

(B) The facts involve reprisals under the Military Whistleblower Protection Act, confirmed by the DOD Inspector General (DODIG) under 10 U.S.C. 1034 and DODD 7050.6.

(C) The ABCMR recommends relief but is not authorized to act for the Secretary of the Army on the application.

(3) *Decision of the Secretary of the Army.* (i) The Secretary of the Army may direct such action as he or she deems proper on each case. Cases returned to the Board for further consideration will be accompanied by a brief statement of the reasons for such action. If the Secretary does not accept the ABCMR's recommendation, adopts a minority position, or fashions an action that he or she deems proper and supported by the record, that decision will be in writing and will include a brief statement of the grounds for denial or revision.

(ii) The Secretary of the Army will issue decisions on cases covered by the Military Whistleblower Protection Act (10 U.S.C. 1034 and DODD 7050.6). In cases where the DODIG concluded that there was reprisal, these decisions will be made within 180 days after receipt of the application and the investigative report by the DODIG, the Department of the Army Inspector General (DAIG), or other Inspector General offices. Unless the full relief requested is granted, these applicants will be informed of their right to request review of the decision by the Secretary of Defense.

(4) *Reconsideration of ABCMR decision.* An applicant may request the ABCMR to reconsider a Board decision under the following circumstances:

(i) If the ABCMR receives the request within 1 year of the ABCMR's action and if the ABCMR has not previously reconsidered the matter, the ABCMR staff will review the request to determine if it contains evidence (including, but not limited to, any facts or arguments as to why relief should be granted) that was not in the record at the time of the ABCMR's prior consideration. If new evidence has been submitted, the request will be submitted to the ABCMR for its determination of whether the new evidence is sufficient to demonstrate material error or injustice. If no new evidence is found, the ABCMR staff will return the application to the applicant without action.

(ii) If the ABCMR receives the request more than 1 year after the ABCMR's action or after the ABCMR has already considered one request for reconsideration, the ABCMR staff will review the request to determine if substantial relevant evidence is submitted showing fraud, mistake of law, mathematical miscalculation, manifest error, or the existence of substantial relevant new evidence discovered contemporaneously or within a short time after the ABCMR's original consideration. If the ABCMR staff finds such evidence, it will be submitted to the ABCMR for its determination of whether a material error or injustice exists and the proper remedy. If the ABCMR staff does not find such evidence, the application will be returned to the applicant without action.

(h) *Claims/Expenses.*—(1) *Authority.* (i) The Army, by law, may pay claims for amounts due to applicants as a result of correction of military records.

(ii) The Army may not pay any claim previously compensated by Congress through enactment of a private law.

(iii) The Army may not pay for any benefit to which the applicant might later become entitled under the laws and regulations managed by the VA.

(2) *Settlement of claims.* (i) The ABCMR will furnish DFAS copies of decisions potentially affecting monetary entitlement or benefits. The DFAS will treat such decisions as claims for payment by or on behalf of the applicant.

(ii) The DFAS will settle claims on the basis of the corrected military record. The DFAS will compute the amount due, if any. The DFAS may require applicants to furnish additional information to establish their status as proper parties to the claim and to aid in deciding amounts due. Earnings received from civilian employment during any period for which active duty pay and allowances are payable will be deducted. The applicant's acceptance of a settlement fully satisfies the claim concerned.

(3) *Payment of expenses.* The Army may not pay attorney's fees or other expenses incurred by or on behalf of an applicant in connection with an application for correction of military records under 10 U.S.C. 1552.

(i) *Miscellaneous Provisions.*—(1) *Special Standards.* (i) Pursuant to the November 27, 1979 order of the United States District Court for the District of Columbia in *Giles* v. *Secretary of the Army* (Civil Action No. 77–0904), a former Army soldier is entitled to an honorable discharge if a less than honorable discharge was issued to the soldier on or before November 27, 1979 in an administrative proceeding in which the Army introduced evidence developed by or as a direct or indirect result of compelled urinalysis testing administered for the purpose of identifying drug abusers (either for the purposes of entry into a treatment program or to monitor progress through rehabilitation or follow-up).

(ii) Applicants who believe that they fall within the scope of paragraph (i)(1)(i) of this section should place the term ''CATEGORY G'' in block 11b of DD Form 149. Such applications should be expeditiously reviewed by a designated official, who will either send the individual an honorable discharge certificate if the individual falls within the scope of paragraph (i)(1)(i) of this section, or forward the application to the Discharge Review Board if the individual does not fall within the scope of paragraph (i)(1)(i) of this section. The action of the designated official will not constitute an action or decision by the ABCMR.

(2) *Public access to decisions.* (i) After deletion of personal information, a redacted copy of each decision will be indexed by subject and made available for review and copying at a public reading room at Crystal Mall 4, 1941 Jefferson Davis Highway, Arlington, Virginia. The index will be in a usable and concise form so as to indicate the topic considered and the reasons for the decision. Under the Freedom of Information Act (5 U.S.C. 552), records created on or after November 1, 1996 will be available by electronic means.

(ii) Under the Freedom of Information Act and the Privacy Act of 1974 (5 U.S.C. 552a), the ABCMR will not furnish to third parties information submitted with or about an application unless specific written authorization is received from the applicant or unless the Board is otherwise authorized by law.

Karl F. Schneider,

Deputy, Assistant Secretary (Army Review Boards).

[FR Doc. 00–8089 Filed 3–31–00; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–00–014]

Drawbridge Operation Regulations: Norwalk River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Washington Street S136 Bridge, mile 0.0, across the Norwalk River at Norwalk, Connecticut. This deviation from the regulations allows the bridge owner to keep the S136 Bridge in the closed position Tuesday through Thursday each week from March 28 through April 20, 2000. These closures are necessary to facilitate structural repairs at the bridge.

DATES: This deviation is effective March 28, 2000, through April 20, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Arca, Project Officer, First Coast Guard District, at (212) 668–7165.

SUPPLEMENTARY INFORMATION: The Washington Street S136 Bridge, mile 0.0, across the Norwalk River at Norwalk, Connecticut, has a vertical clearance of 9 feet at mean high water, and 16 feet at mean low water in the closed position. The bridge owner, Connecticut Department of Transportation, requested a temporary deviation from the operating regulations to facilitate structural repairs at the bridge. The existing operating regulations listed at 33 CFR 117.217 require the bridge to open on signal, except that, from 7 a.m. to 8:45 a.m., 11:45 a.m. to 1:15 p.m., and 4 p.m. to 6 p.m., Monday through Friday, except holidays, the draw need not be opened for the passage of vessels that draw less than 14 feet of water.

This deviation to the operating regulations allows the owner of the bridge to keep the bridge in the closed position as follows:

March 28, 2000, through March 30, 2000;

April 4, 2000, through April 6, 2000; April 11, 2000, through April 13, 2000; April 18, 2000, through April 20, 2000.

These repairs are being performed during the time period that there have been few requests to open the bridge. Vessels that can pass under the bridge without an opening may do so at all times.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 22, 2000.

G.N. Naccara

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 00–8139 Filed 3–31–00; 8:45 am]

BILLING CODE 4915–15–U–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6566–5]

Finding of Failure To Submit a Required State Implementation Plan for Carbon Monoxide; Fairbanks, Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Finding of Failure to Submit.

SUMMARY: EPA is taking final action in making a finding, under the Clean Air Act (CAA or Act), that Alaska failed to make a carbon monoxide (CO) nonattainment area State Implementation Plan (SIP) submittal required for Fairbanks under the Act. Under certain provisions of the Act, states are required to submit SIPs providing for, among other things, reasonable further progress and attainment of the CO National Ambient Air Quality Standards (NAAQS) in areas classified as serious. The deadline for submittal of this plan for Fairbanks was October 1, 1999. This action triggers the 18-month time clock for mandatory application of sanctions and 2-year time clock for a Federal Implementation Plan (FIP) under the Act. This action is consistent with the CAA mechanism for assuring SIP submissions.

EFFECTIVE DATE: This action is effective as of April 3, 2000.

ADDRESSES: Written comments should be addressed to: Ms. Debra Suzuki, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: John Pavitt, U.S. EPA, Region 10, Alaska Operations Office, 222 W. 7th Avenue, #19, Anchorage, Alaska, 99513–7588, Telephone (907) 271–5083.

SUPPLEMENTARY INFORMATION:

I. Background

The CAA Amendments of 1990 were enacted on November 15, 1990. Under Section 107(d)(1)(c) of the amended CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as the Fairbanks area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operations of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Fairbanks area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56846 (November 6, 1991).

(1) The CO nonattainment area is the ''Fairbanks Area, Fairbanks Election District (part), Fairbanks nonattainment area boundary.'' 40 CFR 81.302.

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit SIPs designed to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995.

(2) The moderate area SIP requirements are set forth in section 187(a) of the Act and differ depending on whether the area's design value is below or above 12.7 ppm. The Fairbanks area has a design value below 12.7 ppm. 40 CFR 81.302.

On February 27, 1998 EPA made a final finding that the Fairbanks CO nonattainment area did not attain the CO NAAQS under the CAA mandated attainment date of December 31, 1995 for moderate nonattainment. As a result of that finding, which went into effect on March 30, 1998, (63 FR 9945 February 27, 1998) the Fairbanks, Alaska CO nonattainment area was reclassified as serious. The State had 18 months or until October 1, 1999 to submit a new State Implementation Plan (SIP) demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the CAA attainment date for serious areas. The Fairbanks area continues to exceed the CO standard with three exceedances in 1997, three in 1998, two in 1999 and, based upon preliminary review of the data, at least one in 2000. Notwithstanding significant efforts by the Alaska Department of Environmental Conservation to complete their CO SIP, the state has failed to meet the October 1, 1999 deadline for the required SIP submission. EPA is therefore compelled to find that the State of Alaska has failed to make the required SIP submission for Fairbanks. The CAA established specific consequences if EPA finds that a State has failed to meet certain requirements of the CAA. Of particular relevance here is CAA section 179(a)(1), the mandatory sanctions provisions. Sections 179(a) sets forth four findings that form the basis for applications of a sanction. The first finding, that a State has failed to submit a plan required under the CAA, is the finding relevant to this rulemaking.

If Alaska has not made the required complete submittal by October 3, 2001, pursuant to CAA section 179(a) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b) will be applied in the affected area. If the State has still not made a complete submission by April 3, 2002, then the highway funding sanction will apply in the affected area, in accordance with 40 CFR 52.31. In addition, CAA section 110(c) provides that EPA must promulgate a Federal Implementation Plan (FIP).

(3) In a 1994 rulemaking, EPA established the Agency's selection of the sequence of these two sanctions: the offset sanction under section 179(b)(2) shall apply at 18 months, followed 6 months later by the highway sanction under section 179(b)(1) of the Act. EPA does not choose to deviate from this presumptive sequence in this instance. For more details on the timing and implementation of the sanctions, see 59 FR 39832 (August 4, 1994), promulgating 40 CFR 52.31, ''Selection of sequence of mandatory sanctions for findings made pursuant to section 179 of the Clean Air Act.''

The sanctions will not take effect if, before October 3, 2001, EPA finds that the State has made a complete submittal of a plan addressing the serious area CO requirements for Fairbanks. In addition, EPA will not promulgate a FIP if the State makes the required SIP submittal and EPA takes final action to approve the submittal before April 3, 2002, (section 110(c)(1) of the Act). EPA encourages the responsible parties in Alaska to continue working together on the CO Plan which can eliminate the need for potential sanctions and FIP.

II. Final Action

A. Finding of Failure to Submit

Today, EPA is making a finding of failure to submit for the Fairbanks CO nonattainment area, due to failure of the State to submit a SIP revision addressing the serious area CO requirements of the CAA.

B. Effective Date Under the Administrative Procedures Act

EPA has issued this action as a rulemaking because the Agency has treated this type of action as rulemaking in the past. However, EPA believes that it would have the authority to issue this action in an informal adjudication, and is considering which administrative process-rulemaking or informal adjudication-is appropriate for future actions of this kind. Because EPA is issuing this action as a rulemaking, the Administrative Procedures Act (APA) applies. Today's action is effective as of April 3, 2000. Under the APA, 5 U.S.C. 553 (d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if an agency has good cause to mandate an earlier effective date. Today's action concerns a SIP submission that is already overdue and the State is aware of applicable provisions of the CAA relating to overdue SIPs. In addition, today's action simply starts a ''clock'' that will not result in sanctions for 18 months, and that the State may ''turn off'' through the submission of a complete SIP submittal. These reasons support an effective date prior to 30 days after the date of publication.

C. Notice-and-Comment Under the Administrative Procedures Act

This document is a final agency action, but is not subject to the notice-and-comment requirements of the APA, 5 U.S.C. 533(b). EPA believes that because of the limited time provided to make findings of failure to submit regarding SIP submissions, Congress did not intend such findings to be subject to notice-and-comment rulemaking. However, to the extent such findings are subject to notice-and-comment rulemaking, EPA invokes the good cause exception pursuant to the APA, 5 U.S.C. 553(d)(3). Notice and comment are unnecessary because no EPA judgment is involved in making a nonsubstantive finding of failure to submit SIPs required by the CAA. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the statute for making such determinations. Finally, notice and comment would be contrary to the public interest because it would divert Agency resources from the critical substantive review of submitted SIPs. See 58 FR 51270, 51272, note 17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994).

III. Administrative Requirements

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this notice, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

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. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of April 3, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule is effective as of April 3, 2000.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 2, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

Dated: March 20, 2000.

Jane Moore,

Acting Regional Administrator, Region 10.

[FR Doc. 00–7628 Filed 3–31–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 22 and 101

[WT Docket No. 97–81; FCC 99–415]

Multiple Address Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules to maximize the use of spectrum designated for Multiple Address Systems (MAS) in the Fixed Microwave Services. Specifically, the Commission lifts the application freeze for the 928/952/956 MHz bands and twenty channels in the 932/941 MHz bands; designates the 928/952/956 MHz bands and twenty channels in the 932/941 MHz bands for public safety and/or private internal services, indicating that these channels will be licensed on a first-come, first-served site-by-site basis; designates five of the twenty channel pairs for public safety/Federal Government use; will license the 928/959 MHz bands and the remaining twenty of the forty paired channels in the 932/941 MHz bands on a geographic-area basis; increases the licensees' technical and operational flexibility in order to allow licensees to provide services that are responsive to market demands; and provides incumbents with sufficient protection to avoid disruption of the marketplace or any undue unfairness.

DATES: Effective June 2, 2000 (except for § 101.1327 which contains an information collection that has not been

approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of this section. Written comments by OMB and the public on information collection requirements are due June 2, 2000.

FOR FURTHER INFORMATION CONTACT: Shellie Blakeney, Michael Sozan, or Guy Benson at (202) 418–0680, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, or Les Smith, AMD–PERM, Office of Managing Director at (202) 418–0217. In addition to filing comments with the Office of the Secretary, a copy of any comments on the information collection requirements contained herein 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.*

SUPPLEMENTARY INFORMATION:

1. This is a summary of the Commission's *Report and Order,* FCC 99–415 in WT Docket No. 97–81, adopted on December 30, 1999, and released on January 19, 2000. The full text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, S.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037. The full text may also be downloaded at: *www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

Summary of the Report and Order

2. The *Report and Order* maximizes the use of spectrum designated for MAS in the Fixed Microwave Services. MAS consists of 3.2 megahertz (MHz) of electromagnetic spectrum in the 900 MHz band and is licensed under parts 22 and 101 of our rules. The *Report and Order:* (1) Establishes a flexible regulatory framework for MAS spectrum that provides opportunities for continued development of competitive service offerings by allowing a variety of services; (2) expedites market entry through modified licensing procedures; and (3) promotes technological innovation by eliminating unnecessary regulatory burdens. The rules adopted in the *Report and Order* facilitate the further development and implementation of MAS and will ensure that MAS spectrum is utilized to its fullest potential.

3. Specifically, the Commission designates the 928/952/956 MHz bands and twenty channels in the 932/941 MHz bands for public safety and/or private internal services, and provides that these bands will be licensed on a site-by-site basis. The Commission reserves five of the twenty channel pairs in the 932/941 MHz bands for public safety/Federal Government Services. Additionally, the Commission will license the 928/959 MHz bands and twenty of the forty paired channels in the 932/941 MHz bands on a geographic area basis; grandfathers existing operations on the MAS bands and restricts expansion in the 928/959 MHz bands; establishes service areas based on the Federal Communications Commission's definition of Economic Areas (EAs) and on the U.S. Department of Commerce's definition of EAs; establishes construction/coverage requirements for EA licensees—specifically, coverage to at least one-fifth of the population in their service areas or substantial service within five years of the license grant—and a showing of substantial service within ten years of being licensed; allows licensees to provide mobile and fixed operations on a co-primary basis for point-to-point and point-to-multipoint operations; adopts a flexible approach for defining the regulatory status of MAS licensees by allowing the licensee to indicate its regulatory status; lifts the suspension on the acceptance of applications for the 928/952/956 MHz bands and the twenty channels in the 932/941 MHz bands designated for public safety/Federal Government and/or private internal services upon the release of the *Report and Order;* and adopts Part 1 competitive bidding rules for MAS spectrum.

Final Regulatory Flexibility Act and Final Analysis

1. As required by the Regulatory Flexibility Act (RFA), Initial Regulatory Flexibility Analyses (IRFA) were incorporated in the Amendment of the Commission's rules Regarding Multiple Address Systems, *Notice of Proposed Rule Making,* FCC 97–58, 62 FR 11407 (Mar. 12, 1997), and *Further Notice of Proposed Rule Making,* FCC 99–101, 64 FR 38617 (July 19, 1997). The Commission sought written public comment on the proposals in the *Notice* and *Further Notice,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

I. Reason for, and Objectives of, the Report and Order

2. These proceedings were initiated to secure public comment on proposals to maximize the efficient and effective use of spectrum allocated to Multiple Address Systems (MAS) in the Microwave Services and to analyze the impact of the Balanced Budget Act on these proposals. In attempting to maximize the use of MAS spectrum, we continue our efforts to improve the efficiency of spectrum use, reduce the regulatory burden on spectrum users, facilitate technological innovation, and provide opportunities for development of competitive new service offerings. The rules adopted in this *Report and Order* are also designed to implement Congress' goal of giving small businesses the opportunity to participate in the provision of spectrum-based services in accordance with section 309(j) of the Communications Act of 1934, as amended.

II. Summary of Significant Issues Raised by Public Comments in Response to the Initial Regulatory Flexibility Analyses

3. No petitions/comments were filed in direct response to the IRFA. In general, commenters and reply commenters supported our proposals to provide additional flexibility in the MAS Service. Moreover, many of the commenters and reply commenters were existing MAS licensees many of whom qualify as small businesses. These commenters overwhelmingly supported proposals that would permit (1) acquisitions by partitioning or disaggregation; and (2) MAS licensees and applicants to choose their regulatory status. Commenters generally supported our proposed definitions for ''small business'' and ''very small business'' and did not oppose our proposal to use ''tiered'' bidding credits for these entities. One commenter specifically suggested that the Commission recognize rural phone companies in the category of ''designated entities'' and create for rural telephone companies specific preferences that would enable them to participate in the provision of MAS services to rural parts of the country.

III. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small

entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

5. Last, the definition of ''small governmental entity'' is one with populations of fewer than 50,000. There are 85,006 governmental entities in the nation. This number includes such entities as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,556, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all government entities. Thus, of the 85,006 governmental entities, we estimate that ninety-six percent, or about 81,600, are small entities that may be affected by our rules. We further describe and estimate the number of small business licensees and regulatees that may be affected by the rules.

6. The rules adopted in this *Report and Order* affect a number of small entities who are either licensees, or may choose to become applicants for licenses, in the MAS Service. Such entities, in general, fall into two categories: (1) Those using MAS spectrum for profit based uses and (2) those using MAS spectrum for private internal uses.

7. With respect to the first category, the Commission has developed and received approval from the Small Business Administration for two definitions of small entities applicable to MAS licensees that do not provide private internal service. The Commission defines a small business as an entity that, together with its affiliates and persons or entities that hold interests in such entity and their affiliates, has average gross revenues for the preceding three years not to exceed $15 million. We define a very small business as an entity that, together with its affiliates and persons or entities that hold interests in such entity and their affiliates, has average gross revenues for the preceding three years not to exceed $3 million. These tiers are consistent with those set forth in part 1, subpart Q. The majority of these entities will most likely be licensed in bands where the Commission has implemented a geographic area licensing approach that would require the use of competitive bidding procedures to resolve mutually exclusive applications. The Commission's licensing database indicates that, as of January 20, 1999, there were a total of 8,670 MAS station authorizations. Of these, 260 authorizations were associated with common carrier service.

8. With respect to the second category, which consists of entities that use, or seek to use, MAS spectrum to accommodate their own internal communications needs, we note that MAS serves an essential role in a range of industrial, safety, business, and land transportation activities. MAS radios are used by companies of all sizes, operating in virtually all U.S. business categories, and by all types of public safety entities. We note that some of these entities may seek to use spectrum in which geographic area licensing is implemented to satisfy their internal purposes, in which case they will be subject to the definitions for small business described herein. For the majority of private internal users, the definitions developed by the SBA would be more appropriate. The applicable definition of small entity in this instance appears to be the definition under the SBA rules applicable to establishments engaged in radiotelephone communications. This definition provides that a small entity is any entity employing no more than 1,500 persons. The Commission's licensing database indicates that, as of January 20, 1999, of the 8,670 total MAS station authorizations, 8,410 authorizations were for private radio service, and of these, 1,433 were for private land mobile radio service.

IV. Reporting, Recordkeeping, and Other Compliance Requirements

9. Given that we are using competitive bidding to award certain MAS licenses and have established a small business definition for competitive bidding purposes, then all small businesses that choose to participate in these services will be required to demonstrate that they meet the criteria set forth to qualify as small businesses. Any small business applicant wishing to avail itself of small business provisions will need to make the general financial disclosures necessary to establish that the small business is in fact small.

10. Prior to auction, each small business applicant will be required to submit an FCC Form 175, OMB Clearance Number 3060–0600. The estimated time for completing an FCC Form 175 is forty-five minutes. In addition to filing an FCC Form 175, each applicant must submit information regarding the ownership of the applicant, any joint venture arrangements or bidding consortia that the applicant has entered into, and financial information which demonstrates that a business wishing to qualify for bidding credits is a small business. Applicants that do not have audited financial statements available will be permitted to certify to the validity of their showings. While many small businesses have chosen to employ attorneys prior to filing an application to participate in an auction, the rules are proposed so that a small business working with the information in a bidder information package can file an application on its own. When an applicant wins a license, it will be required to submit an FCC Form 601 (Long-form Application for Authorization), which will require technical information regarding the applicant's proposals for providing service. This application, and any appropriate schedules and attachments, will require information provided by an engineer who will have knowledge of the system's design. MAS applicants and/or licensees will be required to submit certain showings to indicate compliance with the Commission's rules.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

11. We have reduced the economic burden placed on small business where possible. In response to general comments filed in this proceeding, we have adopted final rules designed to maximize opportunities for participation by, and growth of, small businesses in providing wireless services. Specifically, we expect that allowing partitioning and disaggregation of licenses and bidding credits will specifically assist small businesses.

12. There were some entities that opposed our proposals related to implementing geographic area licensing in certain MAS bands because the filing of any mutually exclusive applications would require them to participate in auctions. However, we determined that the public interest would be best served by adopting our proposal. Many of the potentially affected entities would have

an opportunity to secure spectrum in other MAS bands where we retain first-come, first-served, site-based licensing with frequency coordination. However, as stated earlier, many commenters expressed general support for our proposals in the MAS proceeding because these new procedures streamline our licensing requirements, administrative burdens for both applicants and/or licensees, and the Commission, which would ultimately result in less economic burden to the applicants and/or licensees.

Report to Congress: The Commission will send a copy of the *Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the *Report and Order,* including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Paperwork Reduction Analysis. The *MAS Report and Order* contains an information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection(s) contained in this *Report and Order* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due June 2, 2000. Comments should address: (a) Whether the new or modified 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.

OMB Control Number: 3060–xxxx.

Title: 101.1327 Renewal expectancy for EA licensees.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit; not-for-profit institutions; and/or state, local or tribal governments.

Number of Respondents: 18,820.

Estimated Time per Response: 20 hours.

Total Annual Burden: 284,653 hours.

Cost to Respondents: $18,820,000.

Needs and Uses: The information required by § 101.1327 is used to determine whether a renewal applicant has complied with the requirement to provide substantial service by the end of the ten-year initial license term. The information is used by the Commission staff in carrying out its duties under the Communications Act. Without this information, the Commission would not be able to carry out its statutory responsibilities.

List of Subjects in 47 CFR Parts 22 and 101

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For reasons discussed in the preamble, the Federal Communications Commission amends parts 22 and 101 as follows:

PART 22—PUBLIC MOBILE SERVICES

1. The authority citation for parts 22 is amended to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309, and 332.

2. Section 22.621 is amended by removing paragraphs (a) and (b) and by revising the introductory text to read as follows:

§ 22.621 Channels for point-to-multipoint operation.

The following channels are allocated for assignment to transmitters utilized within point-to-multipoint systems that support transmitters that provide public mobile service. Unless otherwise indicated, all channels have a bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz. No new licenses will be issued for any 900 MHz frequencies in this section. See part 101, subpart O of this chapter for treatment of incumbents and for new licensing procedures. Incumbents under part 22 are subject to the restrictions of part 101, subpart O of this chapter but may make permissible modifications, transfers, assignments, or renew their licenses using procedures, forms, fees, and filing requirements of part 22.

* * * * *

PART 101—FIXED MICROWAVE SERVICES

3. The authority citation for part 101 is amended to read as follows:

Authority: 47 U.S.C. 154, 303.

4. Section 101.3 is amended by adding the following definitions.

§ 101.3 Definitions.

* * * * *

MHz Service Bands

(1) *928/952/956 MHz Service.* A flexible radio service using frequencies in the 928.0—928.85 MHz band paired with frequencies in the 952.0—952.85 MHz band or using unpaired frequencies in the 956.25—956.45 MHz band licensed on a site-by-site basis and used for terrestrial point-to-point and point-to-multipoint fixed and mobile operations.

(2) *928/959 MHz Service.* A flexible radio service using frequencies in the 928.85—929.0 MHz band paired with frequencies in the 959.85—960.0 MHz band licensed by Economic Area and used for terrestrial point-to-point and point-to-multipoint fixed and mobile operations.

(3) *932/941 MHz Service.* A flexible radio service using frequencies in the 932.0—932.5 MHz band paired with frequencies in the 941.0–941.5 MHz band used for terrestrial point-to-point and point-to-multipoint fixed and mobile operations. The frequencies from 932.00625/941.00625 MHz to 932.24375/941.24375 MHz are licensed by Economic Area. The frequencies from 932.25625/941.25625 MHz to 932.49375/941.49375 MHz are licensed on a site-by-site basis.

* * * * *

5. Section 101.63 is amended by revising paragraph (c) to read as follows:

§ 101.63 Period of construction; certification of completion of construction.

* * * * *

(c) The frequencies associated with all point-to-multipoint authorizations which have cancelled automatically or otherwise been recovered by the Commission will again be made available for reassignment on a date and under terms set forth by Public Notice. See § 101.1331(d) for treatment of MAS incumbent site-by-site licenses recovered in EAs.

* * * * *

6. Section 101.101 is amended by revising the first six entries of the table and by revising the heading of the fifth column as follows:

§ 101.101 Frequency availability.

Frequency band (MHz)	Radio service				
	Common carrier (Part 101)	Private radio (Part 101)	Broadcast auxiliary (Part 74)	Other (Parts 15, 21, 22, 24, 25, 74, 78 & 100)	Notes
928—929	MAS	MAS		PRS	
932.0—932.5	MAS	MAS		PRS	
932.5—935.0	CC	OFS			(1)
941.0—941.5	MAS	MAS		PRS	
941.5—944.0	CC	OFS	Aural BAS		(1)
952—958		OFS/MAS		PRS	
958—960	MAS	OFS			
* * *	*	*	*		*

* * * * *

7. Section 101.105 is amended by revising paragraphs (c)(3), (c)(3)(i), (c)(3)(ii), (c)(3)(iii) and (c)(5) as follows:

§ 101.105 Interference protection criteria.

* * * * *

(c) * * *

(3) Applicants for site-based frequencies listed in § 101.147 paragraph (b)(1) must make the following showings that protection criteria have been met over the entire service area of existing systems. Such showings may be made by the applicant or may be satisfied by a statement from a frequency coordinator.

(i) For site-based multiple address stations in the 928–929/952–960 MHz and the 932–932.5/941–941.5 MHz bands, a statement that the proposed system complies with the following co-channel separations from all existing stations and pending applications:

Fixed-to-fixed—145 km;

Fixed-to-mobile—113 km;

Mobile-to-mobile—81 km

Note to paragraph (c)(3)(i): Multiple address systems employing only remote stations will be treated as mobile for the purposes of determining the appropriate separation. For mobile operation, the mileage is measured from the reference point specified on the license application. For fixed operation on subfrequencies in accordance with § 101.147 the mileage also is measured from the reference point specified on the license application.

(ii) In cases where the geographic separation standard in paragraph (c)(3)(i) of this section is not followed, an engineering analysis must be submitted to show the coordination of the proposed assignment with existing systems located closer than those standards. The engineering analyses will include:

(A) Specification of the interference criteria and system parameters used in the interference study;

(B) Nominal service areas of each system included in the interference analysis;

(C) Modified service areas resulting from the proposed system. The propagation models used to establish the service boundary limits must be specified and any special terrain features considered in computing the interference impact should be described; and

(D) A statement that all parties affected have agreed to the engineering analysis and will accept the calculated levels of interference.

(iii) MAS EA licensees shall provide protection in accordance with § 101.1333.

* * * * *

(5) Mobile operation is permitted on any of the MAS frequency bands on a primary basis.

* * * * *

6. Section 101.109(c) is amended by revising footnote 1 following the table to read as follows:

§ 101.109 Bandwidth.

* * * * *

(c) * * *

* * * * *

[1] The maximum bandwidth that will be authorized for each particular frequency in this band is detailed in the appropriate frequency table in § 101.147. If contiguous channels are aggregated in the 928–928.85/952–952.85/956.25–956.45 MHz, the 928.85–929/959.85–960 MHz, or the 932–932.5/941–941.5 MHz bands, then the bandwidth may exceed that which is listed in the table.

* * * * *

7. Section 101.135 is amended by adding paragraph (e) to read as follows:

§ 101.135 Shared use of radio stations and the offering of private carrier service.

* * * * *

(e) Applicants licensed in the MAS frequencies after June 2, 2000, shall not provide service to others on a non-profit, cost-shared basis or on a for-profit private carrier basis in the 928–928.85/952–952.85/956.25–956.45 MHz bands and the 932.25625–932.49375/941.25625–941.49375 MHz bands.

8. Amend § 101.147 as follows:

a. In paragraph (a), revise the numbers in parentheses after the frequency bands; and

b. In paragraph (a), revise note (27) and add note (28).

c. Revise paragraph (b);

d. Revise the text in paragraph (b)(1) and remove the footnotes in Table 1 and Table 2;

e. Revise the text in paragraph (b)(2);

f. Revise the text in paragraph (b)(3) and revise the headings of Table 5 to read ''TABLE 5—PAIRED FREQUENCIES (MHz)'' and Table 6 to read ''TABLE 6—PAIRED FREQUENCIES (MHz)''; and

g. Revise paragraph (b)(4).

§ 101.147 Frequency assignments.

(a) * * *

928.0–929.0 MHz (28)

* * * * *

941.0–941.5 MHz (27)

941.5–944 MHz (17)(18)

952.0–960.0 MHz (28)

* * * * *

(27) Frequencies in the 932 to 932.5 MHz and 941 to 941.5 MHz bands are shared with Government fixed point-to-multipoint stations. Frequencies in these bands are paired with one another and are available for flexible use for transmission of the licensee's products and information services, excluding video entertainment material. 932.00625/941.00625 MHz to 932.24375/941.24375 MHz is licensed by Economic Area. 932.25625/941.25625 MHz to 932.49375/941.49375 MHz is licensed on a site-by-site basis.

(28) Subsequent to July 1, 1999, MAS operations in the 928/952/956 MHz bands are reserved for private internal use. The 928.85–929.0 MHz and 959.85–960.0 MHz bands are licensed on a geographic area basis with no eligibility restrictions. The 928.0–928.85 MHz band paired with the 952.0–952.85 MHz band, in additional to unpaired frequencies in the 956.25–956.45 MHz band, are licensed on a site-by-site basis and used for terrestrial point-to-point and point-to-multipoint fixed and mobile operations. The 928.85–929.0 MHz band paired with the 959.85–960.0 MHz band is licensed by Economic Area and used for terrestrial point-to-point and point-to-multipoint fixed and mobile operations.

(b) Frequencies normally available for assignment in this service are set forth with applicable limitations in the following tables: 928–960 MHz Multiple address system (MAS) frequencies are available for the point-to-multipoint and point-to-point transmission of a licensee's products or services, excluding video entertainment material, to a licensee's customer or for its own internal communications. The paired frequencies listed in this section are used for two-way communications between a master station and remote stations. Ancillary one-way communications on paired frequencies are permitted on a case-by-case basis. Ancillary communications between interrelated master stations are permitted on a secondary basis. The normal channel bandwidth assigned will be 12.5 kHz. EA licensees, however, may combine contiguous channels without limit or justification. Site-based licensees may combine contiguous channels up to 50 kHz, and more than 50 kHz only upon a showing of adequate justification. When licensed for a larger bandwidth, the system still is required to use equipment that meets the ±0.00015 percent tolerance requirement. (See § 101.107). Any bandwidth (12.5 kHz, 25 kHz or greater) authorized in accordance with this section may be subdivided into narrower bandwidths to create additional (or sub) frequencies without the need to specify each discrete frequency within the specific bandwidth. Equipment that is used to create additional frequencies by narrowing bandwidth (whether authorized for a 12.5 kHz, 25 kHz or greater bandwidth) will be required to meet, at a minimum, the ±0.00015 percent tolerance requirement so that all subfrequencies will be within the emission mask. Systems licensed for frequencies in these MAS bands prior to August 1, 1975, may continue to operate as authorized until June 11, 1996, at which time they must comply with current MAS operations based on the 12.5 kHz channelization set forth in this paragraph. Systems licensed between August 1, 1975, and January 1, 1981, inclusive, are required to comply with the grandfathered 25 kHz standard bandwidth and channelization requirements set forth in this paragraph. Systems originally licensed after January 1, 1981, and on or before May 11, 1988, with bandwidths of 25 kHz and above, will be grandfathered indefinitely.

(1) Frequencies listed in this paragraph are designated for private internal use and are subject to site-based licensing.

* * * * *

(2) Frequencies listed in this paragraph are designated for private internal use and are subject to site-based licensing.

* * * * *

(3) Frequencies listed in this paragraph are not restricted to private internal use and are licensed by geographic area. Incumbent facilities must be protected.

* * * * *

(4) Frequencies listed in this paragraph are licensed by either economic area or on a site-by-site basis.

TABLE 7.—PAIRED FREQUENCIES

Remote transmit	Master transmit
Licensed by Economic Area	
(12.5 kHz bandwidth):	
932.00625	941.00625
932.01875	941.01875
932.03125	941.03125
932.04375	941.04375
932.05625	941.05625
932.06875	941.06875
932.08125	941.08125
932.09375	941.09375
(50 kHz bandwidth):	
932.12500	941.12500
(12.5 kHz bandwidth):	
932.15625	941.15625
932.16875	941.16875
932.18125	941.18125
932.19375	941.19375
932.20625	941.20625
932.21875	941.21875
932.23125	941.23125
932.24375	941.24375
Reserved for public safety and private internal use. Licensed on site-by-site basis.	
(12.5 kHz bandwidth):	
932.25625	941.25625
932.26875	941.26875
932.28125	941.28125
932.29375	941.29375
932.30625	941.30625
932.31875	941.31875
932.33125	941.33125
932.34375	941.34375
932.35625	941.35625
932.36875	941.36875
932.38125	941.38125
932.39375	941.39375
932.40625	941.40625
932.41875	941.41875
932.43125	941.43125
Reserved for Public Safety and Federal Government Use. Licensed on site-by-site basis.	
(12.5 kHz bandwidth):	
932.44375	941.44375
932.45625	941.45625
932.46875	941.46875
932.48125	941.48125
932.49375	941.49375

* * * * *

10. Subpart O is added to part 101.

Subpart O—Multiple Address Systems

General Provisions

101.1301 Scope.
101.1303 Eligibility.
101.1305 Private internal service.
101.1307 Permissible communications.
101.1309 Regulatory status.

System License Requirements

101.1311 Initial EA license authorization.
101.1313 License term.
101.1315 Service areas.
101.1317 Competitive bidding procedures for mutually exclusive MAS EA applications.
101.1319 Competitive bidding provisions.
101.1321 License transfers.
101.1323 Spectrum aggregation, disaggregation, and partitioning.

System Requirements

101.1325 Construction requirements.
101.1327 Renewal expectancy for EA licensees.
101.1329 EA Station license, location, modifications.
101.1331 Treatment of incumbents.
101.1333 Interference protection criteria.

General Provisons

§ 101.1301 Scope.

This subpart sets out the regulations governing the licensing and operation of Multiple Address Systems (MAS). The rules in this subpart are to be used in conjunction with applicable requirements contained elsewhere in the Commission's rules, such as those requirements contained in parts 1 and 22 of this chapter.

§ 101.1303 Eligibility.

Authorizations for stations in this service will be granted in cases where it is shown that:

(a) The applicant is legally, financially, technically and otherwise qualified to render the proposed service;

(b) There are frequencies available to enable the applicant to render a satisfactory service; and

(c) The public interest, convenience or necessity would be served by a grant thereof.

§ 101.1305 Private internal service.

A private internal service is a service where entities utilize frequencies purely for internal business purposes or public safety communications and not on a for-hire or for-profit basis.

§ 101.1307 Permissible communications.

MAS users may engage in terrestrial point-to-point and point-to-multi-point fixed and mobile operations.

§ 101.1309 Regulatory status.

(a) The Commission will rely on each applicant to specify on FCC Form 601

the type of service or services it intends to provide. Each application for authorization in the bands designated for private internal use must include a certification stating why the application satisfies the definition of private internal use.

(b) Any interested party may challenge the regulatory status granted an MAS licensee.

System License Requirements

§ 101.1311 Initial EA license authorization.

(a) Winning bidders must file an application (FCC Form 601) for an initial authorization in each market and frequency block.

(b) Blanket licenses are granted for each market and frequency block. Applications for individual sites are not required and will not be accepted, except as specified in § 101.1329.

§ 101.1313 License term.

The license term for stations authorized under this subpart is ten years from the date of original issuance or renewal.

§ 101.1315 Service areas.

In the frequency bands not licensed on a site-by-site basis, the geographic service areas for MAS are Economic Areas (EAs). EAs are 175 areas, including U.S. territories and possessions, defined by the Department of Commerce's Bureau of Economic Analysis, as modified by the Commission.

§ 101.1317 Competitive bidding procedures for mutually exclusive MAS EA applications.

Mutually exclusive initial applications for licenses in the portions of the MAS bands licensed on a geographic area basis are subject to competitive bidding procedures. The procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this part.

§ 101.1319 Competitive bidding provisions.

For the purpose of establishing eligibility requirements and bidding credits for competitive bidding for MAS licenses, pursuant to § 1.2110 of this chapter, the following definitions apply:

(a) *Eligibility for small business provisions.*

(1) A small business is an entity that, together with its affiliates and persons or entities that hold interests in such entity and their affiliates, has average gross revenues for the preceding three years not to exceed $15 million, as determined pursuant to § 1.2110 of this chapter.

(2) A very small business is an entity that, together with its affiliates and persons or entities that hold interests in such entity and their affiliates, has average gross revenues for the preceding three years not to exceed $3 million, as determined pursuant to § 1.2110 of this chapter.

(b) *Bidding credits.* A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses, may use the bidding credit specified in § 1.2110(e)(2)(ii) of this chapter. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses, may use the bidding credit specified in § 1.2110(e)(2)(i) of this chapter.

(c) *Unjust enrichment.* See § 1.2111 of this chapter.

§ 101.1321 License transfers.

(a) An MAS system license acquired through competitive bidding procedures (including licenses obtained in cases of no mutual exclusivity), together with all appurtenances may be transferred, assigned, sold, or given away only in accordance with the provisions and procedures set forth in § 1.2111 of this chapter.

(b) An MAS system license obtained through site-based licensing procedures, together with all appurtenances may be transferred, assigned, sold, or given away, to any other entity in accordance with the provisions and procedures set forth in § 1.948 of this chapter.

§ 101.1323 Spectrum aggregation, disaggregation, and partitioning.

(a) *Eligibility.* (1) Parties seeking approval for partitioning and disaggregation shall request from the Commission an authorization for partial assignment of license. Geographic area licensees may participate in aggregation, disaggregation, and partitioning within the bands licensed on a geographic area basis. Site-based licensees may aggregate spectrum in any MAS bands, but may not disaggregate their licensed spectrum or partition their licensed sites.

(2) Eligible MAS licensees may apply to the Commission to partition their licensed geographic service areas to eligible entities and are free to determine the portion of their service areas to be partitioned. Eligible MAS licensees may aggregate or disaggregate their licensed spectrum at any time following the grant of a license.

(b) *Technical standards*—(1) *Aggregation.* (i) There is no limitation on the amount of spectrum that an MAS licensee may aggregate.

(ii) Spectrum licensed to MAS licensees does not count toward the CMRS spectrum cap discussed in § 20.6 of this chapter.

(2) *Disaggregation.* Spectrum may be disaggregated in any amount. A licensee need not retain a minimum amount of spectrum.

(3) *Partitioning.* In the case of partitioning, applicants and licensees must file FCC Form 603 pursuant to § 1.948 of this chapter and list the partitioned service area on a schedule to the application. The geographic coordinates must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude, and must be based upon the 1983 North American Datum (NAD83).

(4) *Combined partitioning and disaggregation.* The Commission will consider requests from geographic area licensees for partial assignment of licenses that propose combinations of partitioning and disaggregation.

(c) *Unjust enrichment.* See § 1.2111(e) of this chapter.

(d) *Construction requirements.* (1) *Disaggregation.* Partial assignors and assignees for license disaggregation have two options to meet construction requirements. Under the first option, the disaggregator and disaggregatee would certify that they each will share responsibility for meeting the applicable construction requirements set forth in § 101.1325 for the geographic service area. If parties choose this option and either party fails to meet the applicable construction requirements, both licenses would be subject to forfeiture at renewal. The second option allows the parties to agree that either the disaggregator or disaggregatee would be responsible for meeting the requirements in § 101.1325 for the geographic service area. If parties choose this option, and the party responsible for meeting the construction requirement fails to do so, only the license of the non-performing party would be subject to forfeiture at renewal.

(2) *Partitioning.* Partial assignors and assignees for license partitioning have two options to meet construction requirements. Under the first option, the partitionor and partitionee would each certify that they will independently satisfy the applicable construction requirements set forth in § 101.1325 for their respective partitioned areas. If either licensee fails to meet its requirement in § 101.1325, only the non-performing licensee's renewal application would be subject to dismissal. Under the second option, the partitionor certifies that it has met or will meet the requirement in § 101.1325

for the entire market. If the partitionor fails to meet the requirement in § 101.1325, however, only its license would be subject to forfeiture at renewal.

(3) All applications requesting partial assignments of license for partitioning or disaggregation must certify in the appropriate portion of the application which construction option is selected.

(4) Responsible parties must submit supporting documents showing compliance with the respective construction requirements within the appropriate construction benchmarks set forth in § 101.1325.

(e) *License term.* The license term for a partitioned license area and for disaggregated spectrum shall be the remainder of the original licensee's license term as provided for in § 101.1313.

System Requirements

§ 101.1325 Construction requirements.

(a) Incumbent site-based licensees are subject to the construction requirements set forth in § 101.63 of subpart B (Applications and Licenses).

(b) Each MAS EA licensee must provide service to at least one-fifth of the population in its service area or ''substantial service'' within five years of the license grant. In addition, MAS EA licensees must make a showing of continued ''substantial service'' within ten years of the license grant. Licensees must file maps and other supporting documents showing compliance with the respective construction requirements within the appropriate five- and ten-year benchmarks of the date of their initial licenses.

(c) Failure by any licensee to meet these requirements will result in forfeiture or non-renewal of the initial license, and the licensee will be ineligible to regain it.

§ 101.1327 Renewal expectancy for EA licensees.

(a) A renewal applicant shall receive a renewal expectancy at the end of the license period as long as the applicant:

(1) Demonstrates that the licensee has provided continued ''substantial service,'' *i.e.,* service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal, during its past license term;

(2) Demonstrates that the licensee has substantially complied with applicable Commission Rules, policies, and the Communications Act of 1934, as amended;

(3) Provides an explanation of the licensee's record of expansion, including a timetable of the construction of new facilities to meet changes in demand for services provided by the licensee; and (4) Provides a description of investments made by the licensee in its system.

(b) In determining whether a renewal applicant has complied with the ''substantial service'' requirement by the end of the ten-year initial license term, the Commission may consider factors such as:

(1) Whether the licensee is offering a specialized or technologically sophisticated service that does not require a high level of coverage to be of benefit to customers; and (2) Whether the licensee's operations service niche markets or focus on serving populations outside of areas served by other licensees. The ''substantial service'' requirement can, however, be met in other ways, and the Commission will review each licensee's showing on a case-by-case basis.

(c) A ''substantial service'' assessment will be made at renewal pursuant to the procedures contained in § 1.949 of this chapter.

§ 101.1329 EA Station license, location, modifications.

EA licensees may construct master and remote stations anywhere inside the area authorized in their licenses, without prior approval, so long as the Commission's technical and other Rules are complied with, except that individual licenses are required for any master station that:

(a) Requires the submission of an environmental assessment under § 1.1307 of this chapter;

(b) Requires international coordination; or

(c) Would affect the radio frequency quiet zones described in § 1.924 of this chapter.

§ 101.1331 Treatment of incumbents.

(a) Any station licensed by the Commission prior to July 1, 1999, as well as any assignments or transfers of such station as of January 19, 2000, shall be considered incumbent.

(b) Incumbent operators in the 928.0–928.85/952.0–952.85/956.25–956.45 MHz bands are grandfathered as of January 19, 2000, and may continue to operate and expand their systems pursuant to the interference protection and co-channel spacing criteria contained in § 101.105.

(c) Incumbent operators in the 928.85–929.0/959.85–960.0 MHz bands are grandfathered as of January 19, 2000, and may expand their systems provided that the signal level of the additional transmitter(s) does not increase the composite contour that occurs at a 40.2 kilometer (25-mile) radius from the center of each master station transmitter site. Incumbent operators and geographic area licensees may negotiate alternative criteria.

(d) The frequencies associated with incumbent authorizations in the 928/959 MHz bands that have cancelled automatically or otherwise been recovered by the Commission will automatically revert to the applicable EA licensee.

(e) The frequencies associated with incumbent authorizations in the 928/952/956 MHz bands that have cancelled automatically will revert to the Commission.

§ 101.1333 Interference protection criteria.

(a) *Frequency coordination.* All EA licensees are required to coordinate their frequency usage with co-channel adjacent area licensees and all other affected parties.

(b) EA licensees are prohibited from exceeding a signal strength of 40 dBμ/m at their service area boundaries, unless a higher signal strength is agreed to by all affected co-channel, adjacent area licensees.

(c) EA licensees are prohibited from exceeding a signal strength of 40 dBμV/m at incumbent licensees' 40.2 kilometer (25-mile) radius composite contour specified in § 101.1329(b).

(d) In general, licensees shall comply with the appropriate coordination agreements between the United States and Canada and the United States and Mexico concerning cross-border sharing and use of the applicable MAS frequencies.

(1) *Canada—932.0–932.25 MHz and 941.0–941.25 MHz:*

(i) Within Lines A, B, C, and D, as defined in § 1.928(e) of this chapter, along the U.S./Canada border, U.S. stations operating in the 932.0–932.25 MHz and 941.0–941.25 MHz bands are on a secondary basis and may operate provided that they shall not transmit a power flux density (PFD) at the border greater than -100 dBW/m^2 nor -94 dBW/m^2, respectively. The U.S. has full use of the frequencies in these regions up to the border in the bands 932.25–932.50 MHz and 941.25–941.50 MHz, and Canadian stations may operate on a secondary basis provided they do not exceed the respective PFDs shown above. PFD can be determined using the following formula: PFD (dBW/m^2) = 10 log [EIRP/4π(D^2], where EIRP is in watts, D is in meters, and the power is relative to an isotropic radiator. The technical parameters are also limited by tables 1 and 2:

TABLE 1.—MAXIMUM RADIATED POWER

Class of station	Band MHz	Maximum EIRP		Maximum ERP [1]	
		Watts	dBW	Watts	dBW
Master	941.0–941.5	1000	30	600	27.8
Fixed Remote and Master	932.0–932.5	50	17	30	14.8

[1] Where ERP = EIRP/1.64.

(ii) Maximum antenna height above average terrain for master stations operating at a maximum power shall not exceed 150 meters. Above 150 meters, the power of master stations shall be in accordance with following table:

TABLE 2.—ANTENNA HEIGHT—POWER REDUCTION TABLE

Antenna height above average terrain (meters)	EIRP		ERP	
	Watts	dBW	Watts	dBW
Above 305	200	23	120	20.8
Above 275 to 305	250	24	150	21.8
Above 245 to 275	315	25	190	22.8
Above 215 to 245	400	26	240	23.8
Above 180 to 215	500	27	300	24.8
Above 150 to 180	630	28	380	25.8

Note to Table 2: This information is from the *Arrangement between the Federal Communications Commission and the National Telecommunications and Information Administration of the United States of America, and Industry Canada concerning the use of the bands 932 to 935 MHz and 941 to 944 MHz along the United States-Canada border* signed in 1994. This agreement also lists grandfathered stations that must be protected.

(2) *Canada—928–929 MHz and 952–960 MHz:*

Between Lines A and B and between Lines C and D, as defined in § 1.928(e) of this chapter, along the U.S./Canada border, U.S. stations operating in the 928.50–928.75 MHz and 952.50–952.75 MHz bands are on an unprotected basis and may operate provided that they shall not transmit a power flux density (PFD) at or beyond the border greater than -100 dBW/m^2. The U.S. has full use of the frequencies in these regions up to the border in the bands 928.25–928.50 MHz and 952.25–952.50 MHz, and Canadian stations may operate on an unprotected basis provided they do not exceed the PFD above. Frequencies in the bands 928.00–928.25 MHz, 928.75–929.00 MHz, 952.00–952.25 MHz, and 952.75–952.85 MHz are available for use on a coordinated, first-in-time, shared basis subject to protecting grandfathered stations. New stations must provide a minimum of 145 km (90 miles) separation or alternatively limit the actual PFD of the proposed station to -100 dBW/m^2, at the existing co-channel master stations of the other country, or as mutually agreed upon on a case-by-case basis. Coordination is not required if the PFD at the border is lower than -100 dBW/m^2. The technical criteria are also limited by the following:

Maximum EIRP for master stations in the MHz band: 1000 watts (30 dBW) 952–953

Maximum EIRP for fixed remote stations or stations in the 928–929 MHz band: 50 watts (17 dBW) master

Maximum EIRP for mobile master stations: 25 watts (14 dBW)

Maximum antenna height above average master or control stations: 152 m at 1000 watts terrain for EIRP, power derated in accordance with the following table:

Antenna height above average terrain (m)	EIRP	
	Watts	dBm
Above 305	200	53
Above 275 to 305	250	54
Above 244 to 274	315	55
Above 214 to 243	400	56
Above 183 to 213	500	57
Above 153 to 182	630	58
Below 152	1000	60

Note to Table in paragraph (d)(2): This information is from the *Arrangement between the Department of Communications of Canada and the Federal Communications Commission of the United States of America Concerning the Use of the Bands 928 to 929 MHz and 952 to 953 MHz along the United States-Canada Border* signed in 1991. This agreement also lists grandfathered stations that must be protected.

(3) *Mexico:*

Within 113 kilometers of the U.S./Mexico border, U.S. stations operating in the 932.0–932.25 MHz and 941.0–941.25 MHz bands are on a secondary basis (non-interference to Mexican primary licensees) and may operate provided that they shall not transmit a power flux density (PFD) at or beyond the border greater than −100 dBW/m². Upon notification from the Commission, U.S. licensees must take proper measures to eliminate any harmful interference caused to Mexican primary assignments. The U.S. has full use of the frequencies in these regions up to the border in the bands 932.25–932.50 MHz and 941.25–941.50 MHz, and Mexican stations may operate on a secondary basis (non-interference to U.S. primary licensees) provided they do not exceed the PFD shown above. Stations using the 932–932.5 MHz band shall be limited to the maximum effective isotropic radiated power of 50 watts (17 dBW). Stations using the 941–941.5 MHz band shall meet the limits in the following table:

Antenna height above average mean sea level (meters)	EIRP	
	Watts	dBW
Above 305	200	23
Above 274 to 305	250	24
Above 243 to 274	315	25
Above 213 to 243	400	26
Above 182 to 213	500	27
Above 152 to 182	630	28
Up to 152	1000	30

Note to Table in paragraph (d)(3): This information is from the *Agreement between the Government of the United States of America and the Government of the United Mexican States Concerning the Allocation and Use of Frequency Bands by Terrestrial Non-Broadcasting Radiocommunication Services Along the Common Border, Protocol #6 Concerning the Allotment and Use of Channels in the 932–932.5 and 941–941.5 MHz Bands for Fixed Point-to-Multipoint Services Along the Common Border* signed in 1994.

[FR Doc. 00–7699 Filed 3–31–00; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 65, No. 64
Monday, April 3, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 99–054–1]

Spanish Pure Breed Horses from Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations that govern the importation of Spanish Pure Breed horses from Spain, a country in which contagious equine metritis, a venereal disease of horses, may exist. We would allow Spanish Pure Breed horses to be imported from Spain into the United States under the same conditions that apply to thoroughbred horses from certain other regions in which contagious equine metritis either exists or may exist. We are proposing this action because Spanish Pure Breed horses, like thoroughbred horses from those other regions, are less likely to be infected with contagious equine metritis than other horses, largely because the life history and medical records of each horse is known and can be certified by a veterinarian of the national government of the region of origin. This action would relieve some restrictions on the importation of Spanish Pure Breed horses into the United States.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by June 2, 2000.

ADDRESSES: Please send your comment and three copies to:

Docket No. 99–054–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 99–054–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Morley Cook, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–6479.

SUPPLEMENTARY INFORMATION:

Background

The animal importation regulations (contained in 9 CFR part 93 and referred to below as the regulations), among other things, prohibit or restrict the importation of certain animals, including horses, into the United States to protect U. S. livestock from communicable diseases, including contagious equine metritis (CEM). CEM is a contagious venereal disease of horses and other equidae that affects breeding and fertility.

To prevent the introduction of CEM, § 93.301(c)(1) lists regions in which CEM exists or in which CEM may exist because those regions have traded horses freely with regions in which CEM exists without testing for CEM. These regions are referred to below as listed regions. Paragraph (c)(1) prohibits the importation of horses into the United States from listed regions unless the horses are imported in accordance with certain requirements. The horses must be:

- Wild species of equidae if captured in the wild or imported from a zoo or other facility where it would be unlikely that the animal would come in contact with domesticated horses used for breeding;
- Geldings;
- Weanlings or yearlings;
- Horses imported in specific cases under conditions prescribed by the Administrator of APHIS as provided in § 93.301(a);
- Thoroughbred horses imported for permanent entry from France, Germany, Ireland, or the United Kingdom as provided in § 93.301(d);
- Stallions or mares over 731 days of age for permanent entry as provided in § 93.301(e) (which requires pre-export testing, Federal quarantine upon arrival, and post-entry quarantine in a State approved to receive horses from listed regions);
- Horses over 731 days of age imported for no more than 90 days to compete in specified events as provided in § 93.301(f); or
- U.S. horses returning to the United States as provided in § 93.301(g).

The Equine Breeding Service of the Spanish Government has requested that we amend the regulations to allow Spanish Pure Breed horses to be imported into the United States from Spain under the same conditions that apply to thoroughbred horses from France, Germany, Ireland, and the United Kingdom. Currently, Spanish Pure Breed horses other than weanlings and yearlings may be imported for permanent entry into the United States only in accordance with § 93.301(e). France, Germany, Ireland, and the United Kingdom are listed regions, as is Spain. However, the requirements in § 93.301(d) for importing thoroughbred horses from France, Germany, Ireland, and the United Kingdom are less restrictive than the requirements in § 93.301(e) because the life history and medical records of each thoroughbred horse imported from these countries is known and can be certified by a veterinarian of the national government of the region of origin.

Under § 93.301(d), each thoroughbred horse from France, Germany, Ireland, and the United Kingdom must be accompanied at the time of importation by an import permit and an import health certificate. The requirements related to import permits are contained in § 93.304 of the regulations. The requirements related to import health certificates are contained in § 93.314 of the regulations.

According to § 93.314, an import health certificate must be issued by a salaried veterinary officer of the national government of the region of origin, and it must certify that each horse has been in that region for the 60 days preceding exportation; that each horse has been inspected on the premises of origin and has been found free of evidence of communicable disease, and exposure to communicable disease, during the 60 days preceeding exportation; and that each horse has not

been vaccinated with a live, attenuated, or inactivated vaccine for the 14 days preceding exportation, unless authorized by the Administrator of APHIS.

Paragraph (d) of § 93.301 requires that the veterinarian signing and issuing the import health certificate also certify that he or she has examined the daily records of the horse's activities maintained by the trainer and the records of the horse's activities maintained by a breed association that is specifically approved by the U.S. Department of Agriculture. The veterinarian must certify that the information in these records is consistent and current.

For thoroughbred horses over 731 days of age, the import health certificate must also certify that cultures negative for CEM have been obtained from sets of specimens collected from each horse on 3 separate occasions within a 7-day period. The last set of specimens must have been collected within 30 days of exportation. All specimens must have been received within 48 hours of collection by a laboratory approved to culture for CEM by the national veterinary service of the region of export. All specimens must have been accompanied by a statement indicating the time and date of their collection.

Under § 93.301(d), if any specimen is found positive for CEM, the horse it was collected from must be treated for CEM in a manner approved by the national veterinary service of the region of export. After the treatment is completed, at least 21 days must pass before the horse is eligible to be tested again.

Additionally, § 93.301(d) requires that thoroughbred horses imported from France, Germany, Ireland, and the United Kingdom complete the Federal quarantine required under § 93.308 before they can be released in the United States. Thoroughbred horses that were found positive for, and were treated for, CEM in the region of export must be further quarantined under State or Federal supervision until they have met the additional testing and treatment requirements in § 93.301(e)(3) for stallions or § 93.301(e)(5) for mares.

Under § 93.301(e)(3), specimens must be collected from each stallion's prepuce, urethral sinus, and fossa glandis, including the diverticulum of the fossa glandis, and must be cultured for CEM. If the results are negative, the stallion must be test bred to two mares, after which the stallion must undergo the following treatment for 5 consecutive days: the prepuce, the penis, including the fossa glandis, and the unrethral sinus of the stallion must be thoroughly cleaned and scrubbed with a solution of not less than 2 percent surgical scrub chlorhexidine, while the stallion is in full erection, and then thoroughly coated with an ointment effective against the CEM organism.

Cultures must be made from sets of specimens collected from the mucosal surfaces of the clitoral fossa and clitoral sinuses of each test mare on the third, sixth, and ninth days after test breeding. A complement fixation test for CEM must be performed on each test mare on the fifteenth day after the test breeding. If the result of any culture taken from either of the test mares or from the stallion is positive for CEM, the stallion must undergo the treatment described above and then be test bred again to two mares no sooner than 21 days after the last day of the treatment. Treatment and test breeding must be repeated until all tests are negative for CEM.

Under § 93.301(e)(5), sets of specimens must be taken from mares on days 1, 4, and 7 of a 7-day period. The specimens must be taken from the mucosal surfaces of the clitoral fossa and the clitoral sinuses and cultures must be made. After the three sets of specimens have been taken, organic debris must be manually removed from the clitoral sinuses of each mare and the sinuses must be flushed with a cerumalytic agent. For 5 consecutive days after the sinuses of the mare have been cleaned, the external genitalia and vaginal vestibule, including the clitoral fossa, must be aseptically cleaned and washed with a solution of not less than 2 percent chlorhexidine in a detergent base, and then the clitoral fossa and the clitoral sinuses must be filled and the external genitalia and vaginal vestibule must be coated with an antibiotic ointment effective against the CEM organism. All test results must be negative for CEM before the mare may be released from quarantine. If any test is positive, the mare must be treated again and then tested no less than 21 days after the last day of the treatment described above. Treatment and testing must be repeated until all tests are negative for CEM.

All specimen collections, test breeding, and treatments required under § 93.301(e)(3) and § 93.301(e)(5) must be performed by an accredited veterinarian. All specimens must be submitted to the National Veterinary Services Laboratories, Ames, IA, or to a laboratory approved by the Administrator to conduct CEM cultures and tests. All test results must be negative for CEM before the horses may be released from quarantine.

These conditions ensure that thoroughbred horses imported into the United States from France, Germany, Ireland, and the United Kingdom are free of CEM.

At the request of the Equine Breeding Service of the Spanish Government, we are proposing to allow Spanish Pure Breed horses to be imported from Spain into the United States under the same conditions that apply to thoroughbred horses from France, Germany, Ireland, and the United Kingdom. We would add the Servicio de Cria Caballar y Remonta as the breed association that is specifically approved by the U.S. Department of Agriculture for the purposes of § 93.301(d).

The Spanish Pure Breed horse is only one of seven or eight breeds of purebred horses originating in Spain, but current and accurate historical and medical information is not readily available for the other breeds, so they are not included in this proposed rule. This action would relieve some restrictions on the importation of Spanish Pure Breed horses from Spain (i.e., the horses would not have to undergo the testing and treatment requirements in § 93.301(e)(3) and § 93.301(e)(5) unless they were found positive for, and were treated for, CEM prior to exportation).

We have conducted a risk assessment for this proposed rule to ensure that this action would pose a negligible risk of introducing CEM into the United States. The risk assessment contains a qualitative analysis of 11 risk factors, which are listed in 9 CFR part 92, ''Importation of Animals and Animal Products: Procedures for Requesting Recognition of Regions,'' and a quantitative analysis that evaluates the frequency with which a Spanish Pure Breed horse infected with CEM might be imported from Spain into the United States if this proposed rule were adopted.

According to the qualitative analysis of the risk assessment, Spain is likely to be free of CEM. Additionally, Spanish veterinary authorities have the capabilities needed to culture and diagnose CEM. Routine breeding soundness examinations and investigations of reproductive diseases and reproductive failures conducted by the Spanish Government and military veterinarians would detect CEM if it were to occur in Spanish Pure Breed horses. There has never been a reported case of CEM in Spain. However, even if CEM were introduced into Spain, there is very little chance that it would affect the Spanish Pure Breed population since Spain does not import Spanish Pure Breed horses and Spanish Pure Breed horses are not bred with other breeds.

The quantitative analysis evaluates the number of Spanish Pure Breed horses that are likely to be imported from Spain, the probability that a randomly selected horse would be infected with CEM, and the probability that the infection would be detected by the testing required under this proposed rule.

According to the quantitative analysis, the predicted average frequency, with a 95 percent confidence level, with which a Spanish Pure Breed horse infected with CEM would be released into the United States is once every 700 years or less often. With a 50 percent confidence level, the predicted average frequency is one release every 2,300 years or less often.

Thus, based on the risk assessment, we have determined that this action would pose a negligible risk of introducing CEM into the United States.

The complete risk assessment for this proposed rule may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would allow Spanish Pure Breed horses to be imported from Spain into the United States under the same conditions that apply to thoroughbred horses from France, Germany, Ireland, and the United Kingdom. We are considering this action in response to a request we have received from Spain's Equine Breeding Service to relieve some of the restrictions on the importation of Spanish Pure Breed horses from Spain since the life histories and medical records of these horses can be certified by Spanish Government veterinarians.

The following analysis addresses the economic effect the proposed rule would have on small entities, as required by the Regulatory Flexibility Act.

In 1997, there were 375,218 farms in the United States keeping 2,427,277 horses of all kinds. Approximately 79,516 farms sold 325,306 horses, receiving $1.03 billion in sale revenues. Approximately 98 percent of the farms that sold horses have less than $500,000 in annual revenue and, therefore, are considered small entities by the U.S. Small Business Administration.

U.S. importers and breeders of Spanish Pure Breed horses would be affected by this rule. This rule would make it less expensive for importers to import Spanish Pure Breed horses from Spain.

There are approximately 270 domestic breeders of Spanish Pure Breed horses in the United States, most of which are likely to be small entities. In 1998, there were approximately 2,500 Spanish Pure Breed horses in the United States and only 225 foals were registered that year.

In 1995 and 1996, 4 horses (not all of which were Spanish Pure Breed horses) were imported into the United States from Spain; there were 21 horses in 1997, 39 in 1998, and 46 in 1999. If the proposed rule is adopted, we estimate that the number of Spanish Pure Breed horses imported into the United States from Spain will most likely increase to an average of about 60 per year, for the next 3 to 5 years, with a maximum of 100 in any given year.

Currently, the demand for Spanish Pure Breed horses in the United States is greater than can be supplied by domestic breeders and the small number of these horses imported from Costa Rica, Mexico, and Spain. In 1997, 225 Spanish Pure Breed foals were registered in the United States, while a total of 50 were imported into the United States from all over the world, despite the high costs of shipping (approximately $5000 per horse for air freight plus insurance against mortality, figured at 1 percent of the horse's declared value), quarantine, and testing. Because domestic Spanish Pure Breed horses are less expensive than imports, the demand for domestic Spanish Pure Breed horses would not decrease as a result of this rule. This rule would help satisfy the growing demand for the horses in the United States, and make it less expensive for U.S. breeders and importers to obtain them from Spain.

We do not expect domestic breeders of Spanish Pure Breed horses to be affected by this rule if it is adopted, since the demand in the United States for Spanish Pure Breed horses is greater than the domestic supply and since domestic Spanish Pure Breed horses will still be less expensive than imported ones.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 99–054–1. Please send a copy of your comments to: (1) Docket No. 99–054–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule may increase the number of import permits and import health certificates that will be issued for the importation of thoroughbred horses into the United States.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .78947 hours per response.

Respondents: Salaried veterinary officers of the Spanish Government and U.S. importers of Spanish Pure Breed horses.

Estimated annual number of respondents: 15.

Estimated annual number of responses per respondent: 6.333.

Estimated annual number of responses: 95.

Estimated total annual burden on respondents: 75 hours.

(Due to rounding, the total annual burden may not equal the product of the annual responses multiplied by the average reporting burden per response.)

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we propose to amend part 93 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 11, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 93.301 [Amended]

2. In § 93.301, footnote 6 would be amended by adding the words ''Servicio de Cria Caballar y Remonta for Spain;'' immediately after the word ''Department:''.

3. In § 93.301, paragraph (c)(2)(v), the heading to paragraph (d), and the introductory text in paragraph (d)(1) would be revised to read as follows:

§ 93.301 General prohibitions; exceptions.

* * * * *

(c) * * *

(2) * * *

(v) Spanish Pure Breed horses imported for permanent entry from Spain or thoroughbred horses imported for permanent entry from France, Germany, Ireland, or the United Kingdom if the horses meet the requirements of paragraph (d) of this section;

* * * * *

(d) *Spanish Pure Breed horses from Spain and thoroughbred horses from France, Germany, Ireland, and the United Kingdom.* (1) Spanish Pure Breed horses from Spain and thoroughbred horses from France, Germany, Ireland, and the United Kingdom may be imported for permanent entry if the horses meet the following requirements:

* * * * *

4. In § 93.301, in paragraph (d)(1)(ii)(D), the first sentence, the words ''For thoroughbred horses'' would be removed and the words ''For Spanish Pure Breed horses and thoroughbred horses'' would be added in their place.

5. In § 93.301, in paragraph (d)(3), the words ''Thoroughbred horses'' would be removed and the words ''Spanish Pure Breed horses and thoroughbred horses'' would be added in their place each time they appear.

Done in Washington, DC, this 28th day of March 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–8123 Filed 3–31–00; 8:45 am]

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FEDERAL HOUSING FINANCE BOARD

12 CFR Part 915

[No. 2000–12]

RIN 3069–AB00

Election of Federal Home Loan Bank Directors

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulations to address the status of the 1999 and 2000 elections of directors at each Federal Home Loan Bank (Bank), and to provide standards regarding the manner in which the Banks must stagger their boards. The proposed rule also would address the consequences to an incumbent director whose directorship is eliminated or is redesignated as representing Bank members located in a different state before the end of his or her term.

EFFECTIVE DATE: The Finance Board will accept written comments on the rule until May 3, 2000.

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SUPPLEMENTARY INFORMATION:

I. Background

During 1999, each Bank conducted elections in which the members voted to elect approximately one-half of the elected directors of the Bank. The directors-elect were to have assumed office for two-year terms, commencing on January 1, 2000. On November 12, 1999, the Gramm-Leach-Bliley Act, Pub. Law No. 106–102, 133 Stat. 1338, 1453 (Nov. 12, 1999) (GLB Act), became law, amending Section 7(d) of the Federal Home Loan Bank Act (Bank Act) to establish 3-year terms for all Bank directors. 12 U.S.C. 1427(d), as amended. Because the GLB Act amendments became law upon enactment, they had the effect of extending the two-year terms of all incumbent elected directors by one year.[1] Thus, on January 1, 2000, there were no open directorships for the directors-elect to fill, and those individuals did not assume office on that date.

In previously addressing the effect of the GLB Act on the terms of Bank directorships, the Finance Board expressed its intent to authorize the board of directors of each Bank to decide whether to conduct new elections in 2000 or to adopt the tabulation of votes cast in the 1999 elections for use in the 2000 elections. Finance Board Resolution No. 99–65 (Dec. 14, 1999). The Finance Board indicated that it subsequently would establish the criteria by which the board of each Bank could make that decision, which is one issue addressed in this proposed rulemaking.

The GLB Act also provides that the Finance Board and the board of directors of each Bank shall adjust the term of any director first appointed or elected after enactment of the GLB Act, as necessary to cause the board of each Bank to be staggered into three approximately equal classes. 12 U.S.C. 1427(d), as amended. The GLB Act, however, imposed the staggering requirement without amending existing law, under which the directorships of the Banks are allocated among the states based in part on the amount of Bank stock held by the members located in each state and in part on the number of directorships designated to each state in

[1] See Finance Board Resolution No. 99–65 (Dec. 14, 1999). The GLB Act also had the effect of shortening the terms of all sitting appointed directors from four years to three years. An express transition provision in an earlier version of H.R. 10, which would have mandated that the new 3-year terms take effect with the first post-enactment elections, was not carried over into the GLB Act. H.R. 10, § 164(d), 105th Cong., 2d Sess. (May 13, 1998) (as passed by the House of Representatives).

1960. Under the existing provisions, it is possible for a directorship to be redesignated mid-term to represent the members located in another state. It is also possible that the annual designation of directorships might reduce the number of directorships allocated to a particular state, thus causing a directorship to disappear altogether. The proposed rule includes provisions that are intended to maintain a staggered board notwithstanding the possibility that over time one or more directorships might be eliminated. The proposed rule also would address the consequences to an incumbent director if his or her seat is eliminated or is redesignated mid-term to represent members located in another state.

II. State-Based Directorships

Section 7(b) of the Bank Act requires that the Finance Board designate ''[e]ach elective directorship * * * as representing the members located in a particular State'' and provides that the seat ''shall be filled by a person who is an officer or director of a member located in that State.'' 12 U.S.C. 1427(b) (1994). Section 7(c) of the Bank Act requires that the designation of directorships ''be determined * * * in the approximate ratio of the percentage of the * * * stock [required to be held by] * * * the members located in * * * [a particular] State at the end of the * * * [prior year] to the total required stock * * * of all members of such bank at the end of such year.'' 12 U.S.C. 1427(c) (1994). Under the stock-based allocation formula, each state must be allocated at least one directorship, but no state can be allocated more than six directorships. Section 7(c) also includes a ''grandfather provision,'' however, under which each state may not be allocated fewer directorships than were allocated to it as of December 31, 1960, without regard to the amount of Bank stock currently held by the members in that state. The effect of the grandfather provision is that the members in 20 states are entitled to a minimum number of directorships that ranges from two to six seats per state. *See* 12 CFR 915.15 (listing the states with more than one grandfathered directorship).

The stock-based designation of the elective directorships is done annually. Because the allocation of directorships depends on the amount of Bank stock held by the members located in each state, the state to which a directorship is designated can change from one year to the next as the relative stockholdings of the members change. Because the constituency of a directorship could ''migrate'' to another state as a result of a redesignation, the incumbent would no longer be an officer or director of a member located in the designated state, as is required by Section 7(b), and thus would become ineligible to remain in office as a result of the redesignation. If such a redesignation were to occur mid-term, the board of directors of the Bank would be required to fill the resulting vacancy for the remainder of the unexpired term with an eligible successor, *i.e.,* an officer or director of a member located in the newly-designated state, pursuant to Section 7(f) of the Bank Act. 12 U.S.C. 1427(f) (1994).

Apart from the possibility that a given directorship may be redesignated to another state, it is possible that an elected directorship could disappear entirely as a result of a shift in the relative amounts of Bank stock held by the members located in different states. For example, in the New York Bank district an allocation of directorships based solely on the relative stockholdings of the members in New York and New Jersey at the end of 1998 would have resulted in the designation of six directorships to New York and two directorships to New Jersey. Because of the grandfather provision, however, the Finance Board cannot allocate fewer than four directorships to the New Jersey members, which results in four directorships being designated to New Jersey and six directorships being designated to New York. The members located in New York also are entitled to four seats under the grandfather provision. Thus, the fifth and sixth directorships that currently are designated to New York would continue to be designated to New York only if the relative amounts of Bank stock held by the members in each state remains unchanged in subsequent years.

If the amount of stock held by the New York members were to decrease sufficiently, the stock-based allocation might result in the New York members being allocated only five directorships, rather than their current six seats, with the New Jersey members being allocated three directorships. Although the grandfather provision again would result in New Jersey being allocated four seats, there no longer would be any basis for the New York members to retain the sixth directorship, which would be eliminated. There are at present nine states in eight of the Banks that are allocated one or more directorships in excess of the number guaranteed by the grandfather provision in which a directorship could be eliminated as a result of such a scenario.

Separately, Section 7(a) of the Bank Act allows the Finance Board to create additional elected directorships—''discretionary directorships''—for any Bank in which the district includes five or more states. 12 U.S.C. 1427(a), as amended. There are five such Bank districts: Boston, Atlanta, Dallas, Des Moines, and Seattle. The Finance Board has established a total of five discretionary seats for four of those Banks, which are designated to the following states: Massachusetts (1), North Carolina (1), Missouri (1), and Washington (2). The designation of those discretionary directorships is done at the same time as the annual designation of directorships, but is not dependent on the amount of Bank stock held by the members in a particular state, or on any other factor. The existence of the additional elected directorships created pursuant to Section 7(a) is purely a matter of discretion for the Finance Board.

In addition, for any Bank district in which the Finance Board has established a discretionary elected directorship pursuant to Section 7(a), the Bank Act authorizes the Finance Board to establish a limited number of discretionary appointed directorships. The Finance Board has established a total of seven discretionary appointed directorships in the four districts that have discretionary elected seats: Boston (2), Atlanta (1), Des Moines (2), and Seattle (2). The authority to create a discretionary appointed directorship exists only if the Finance Board has exercised its discretion under Section 7(a) to create discretionary elected directorships. Thus, if the Finance Board were to eliminate the existing discretionary elected directorships, the discretionary appointed directorships would cease to exist at the same time. If the Finance Board were to eliminate all of the discretionary elected directorships that it has established, each of the four Banks noted above could lose a total of between two and four directorships at once.

Because of the possibility that a Bank might lose a number of directorships under one or more of the above provisions, the boards of the Banks could become un-staggered over time regardless of the GLB Act, particularly if all directorships are lost from the same class. Because the GLB Act authorizes the adjustment only of the terms of the persons first appointed or elected after enactment, once the initial staggering is accomplished it is not clear that either the Banks or the Finance Board would be authorized subsequently to adjust the terms of the remaining directors, even if only to ''re-stagger'' a board that has become un-staggered due to a loss of directorships. The Finance Board believes that it is

unlikely that the GLB Act intended only that the boards of the Banks be staggered initially without any consideration being given to how the appropriate staggering might be maintained into the future. The Finance Board believes that by requiring each Bank's core of ''guaranteed'' directorships, *i.e.,* those authorized by the one-seat per state minimum and the grandfather provisions of Section 7(c), to be separately staggered the proposed rule would best ensure that the staggering required by the GLB Act will continue into the future without the risk that the loss of some directorships would upset the initially staggered board structure.

III. Description of the Proposed Rule

A. The 2000 Election

The first issue addressed by this proposed rule concerns the manner in which the members of each Bank are to elect successors to those directors whose terms will expire on December 31, 2000. The proposed rule generally would allow the board of directors of each Bank two alternatives: (i) conduct new elections during the year 2000 for all states for which an elected directorship is to commence on January 1, 2001, or (ii) adopt the results of the balloting from the 1999 elections for any state that qualifies under the requirements of this proposed rule, and conduct new elections only in those states for which the proposed rule would require a new election to be held. In either case, the designation of directorships conducted by the Finance Board in 2000 is to control as to the number of directorships to be allocated to the individual states.

Before a Bank could decide which alternative to adopt, it would have to comply with two requirements in the proposed rule that are procedural in nature. First, the board of directors of each Bank would have to wait until after receiving from the Finance Board the annual designation of directorships among the states within the Bank's district, in accordance with § 915.3(b). Second, the board would have to determine which states are to be assigned reduced terms in order to implement the staggering provisions of the GLB Act and this proposed rule, as described below.

By regulation, the Finance Board must complete the annual designation of directorships and notify the Banks of the results no later than June 1 of each year. Because the allocation of directorships might vary from year to year, the boards of the Banks cannot know whether the designation of directorships occurring in 2000 will be the same as the designation done in 1999. Mergers, acquisitions, and interstate relocations occurring during 1999, as well as the repeal by the GLB Act of Section 10(e) of the Bank Act (which imposes certain capital-based sanctions on non-qualified thrift lender members), could cause the 2000 designation of directorships to allocate a greater or lesser number of seats to particular states than were allocated to those states in 1999. The proposed rule would provide that the designation of directorships to be provided by the Finance Board in 2000 would be controlling with respect to the states to which the directorships are to be assigned. To avoid the possibility that the Banks might have to revisit the issue yet again if they were to ratify the 1999 election results before knowing whether the designations in 2000 had changed, the Finance Board believes that it would be appropriate for the Banks to await the results of the next annual designation of directorships before deciding how to proceed with the 2000 elections.

The second provision would apply only to those Banks whose boards of directors must decide which of two or more states is to be assigned a directorship with a shortened term. In order to create the third class of directorships required by the GLB Act, certain directorships must be assigned shortened terms in connection with the next two elections. Where the board of directors of a Bank is required to choose among several different states in assigning the shortened term, the proposed rule would require that the board make that determination before considering how to proceed with the 2000 election of directors. For example, the Atlanta Bank has one class of four elected directorships with terms commencing on January 1, 2001, in which each directorship represents a different state. It also has a second class of five elected directorships with terms commencing on January 1, 2002, in which four of the directorships represent different states. For each class, the board of the Atlanta Bank would be required to assign to one state a term of less than three years, and the proposed rule would require the board to make that assignment for both classes before determining how to conduct the 2000 election. The Finance Board believes that the better approach would be for this determination to be made at the outset, so that individuals running for the directorship from the affected states will know beforehand that they will not be serving a full three-year term.

As to the election, although the Finance Board intends to vest the decision regarding the method of selecting directors whose terms will commence on January 1, 2001 with the board of directors of each Bank, the proposed rule would require the Banks to conduct new elections in one case. If the designation of directorships conducted in 2000 were to result in a state being allocated a number of directorships that is greater than the number of nominees from that state in the 1999 election, then the Bank would be required to conduct an election in that state. For example, in the 1999 election the Finance Board had designated one directorship to the members in the state of Rhode Island, and there was only one candidate for that directorship. If the 2000 designation of directorships were to result in Rhode Island being allocated two elected directorships, the proposed rule would require the Boston Bank to conduct a new election in 2000 for both of the Rhode Island directorships. The requirement to conduct a new election in Rhode Island would apply on a state-by-state basis; it would not, for example, require that the Bank conduct a new election in any other states. In this example, had there been additional nominees for the Rhode Island directorship in the 1999 election, the board of directors would not be required to conduct a new election, but could declare elected the nominee who had received the next highest number of votes, assuming he or she remained eligible to serve.

If the proposed rule would not require a Bank to conduct a new election for a particular state, the board of directors of the Bank could decide whether to do so. If the board were to determine that the Bank should conduct new elections in 2000, the Bank would be required to conduct elections for every state for which a directorship is to commence on January 1, 2001, in accordance with the 2000 designation of directorships. In most instances, that would mean that the Bank would conduct elections in all states in which it conducted an election in 1999. The language also would require an election to be held for any other states for which an election may be required by the 2000 designation of directorships, and would require that no election be held in any state for which the Bank held an election in 1999 if none were required by the 2000 designations. If the board of directors of a Bank were to require new elections, the Bank would follow the normal procedures for conducting an election, in accordance with Part 915 of the Finance Board regulations, and the 1999 election results would be given no effect.

If a Bank would not be required to conduct new elections and its board of directors did not opt to do so, the proposed rule would allow the board to adopt the votes cast by the members in 1999 as the basis for electing the directors who are to commence their terms on January 1, 2001. The proposed rule would require that the use of the 1999 elections results be consistent with the 2000 designation of directorships and that there be sufficient eligible nominees remaining from the 1999 elections available to fill the designated seats. The board of each Bank would be required to confirm, on a state-by-state basis, that the use of the 1999 election results would be permissible, *i.e.,* that this rule does not require that a new election be held for a particular state, and that the nominees remain eligible.

If the 2000 designation of directorships among the states proves to be the same as the 1999 designation of directorships, then the proposed rule would allow the board of directors of a Bank to ratify the results of the 1999 election, subject to confirming the eligibility of the directors-elect to serve. If the 2000 designation of directorships were to differ from the 1999 designation, the board of directors still would be able to ratify the results of the 1999 elections, provided that doing so would be consistent with the 2000 designations of directorships. For example, if the number of eligible nominees remaining from the 1999 election for a particular state were to equal or exceed the number of directorships allocated to that state in 2000, the board of directors would be able to adopt the 1999 election results to fill the directorships designated to that state in 2000. In that case, the board would follow the normal elections procedure of declaring elected the nominee who received the greatest number of votes in the 1999 election, as well as each successive nominee until all of the directorships designated to that state have been filled.

If the number of directorships designated to a state in 2000 were to be less than the number of directorships designated to that state in 1999, the proposed rule would allow the board of directors to declare elected only the number of nominees that is required to fill all seats open under the 2000 designation. Thus, if a state in which three directorships were to be filled in the 1999 election were allocated only two directorships in the 2000 designation of directorships, only the two nominees from that state receiving the most votes would be declared elected. Similarly, if the number of directorships designated to a state in 2000 is greater than the number of directorships designated to that state in 1999, the board would declare elected however many nominees from the 1999 election as are required to fill all of the seats allocated to that state under the 2000 designation. Thus, if a state in which two directorships were to be filled in 1999 were allocated three directorships in 2000, and there were other nominees who were not elected in 1999, the board of directors could declare the nominee who received the next highest number of votes elected to the newly created seat.

If the board of directors were to ratify the 1999 election results, the proposed rule would require it to notify the Finance Board, the directors-elect, and each member in the affected state. The notice also would be required to indicate which, if any, terms have been adjusted in order to achieve the staggering required by the GLB Act. This requirement would apply to any directorship with a reduced term. Any such term adjustments must comply with § 915.17 of the proposed rule, described below, which addresses staggering the board of directors.

B. Staggering the Terms of Office

The GLB Act imposed what appears to be a straightforward requirement that the board of directors of each Bank be staggered into three approximately equal classes, *i.e.,* it requires a ''class-based'' directorship structure for the Banks. Implementing that requirement, however, is not quite so straightforward because the GLB Act also retained the provisions of current law that require that the Banks have a ''state-based'' directorship structure. To some degree, a ''class-based'' structure and a ''state-based'' structure are in conflict. For example, the Banks cannot have and maintain a pure ''class-based'' staggered directorship structure if other provisions of the Bank Act allow for the possibility that a certain number of directorships may disappear from a given class as a result of shifting stock ownership or at the discretion of the Finance Board. Similarly, the Banks cannot maintain a viable ''state-based'' directorship structure if the creation, elimination, and redesignation of directorships that are necessary consequences of a system that assigns directorships based on relative stock ownership among the states are constrained by other provisions of the Bank Act that require the maintenance of a strict class structure. The proposed rule attempts to strike a balance between the two directorship structures by focusing on each Bank's core of ''guaranteed'' directorships, *i.e.,* those that are guaranteed to a particular state by statute, and ensuring that they remain staggered even if a certain number of the ''non-guaranteed'' directorships are eliminated in the future.

Guaranteed Directorships

The Bank Act guarantees that the members in each state are to be allocated a certain minimum number of Bank directorships. For most states, the Bank Act guarantees each state one directorship. Under the grandfather provision, however, 20 states are guaranteed a minimum number of seats that ranges from two to six directorships. *See* 12 CFR 915.15. Those directorships cannot be eliminated, either by the Finance Board or as a result of shifting stock ownership among the members, nor can they be redesignated as representing members in another state. The proposed rule would define that core group of seats that must be allocated to each state as ''guaranteed directorships''. Ten of the Banks have eight guaranteed directorships each; the other two Banks, New York and San Francisco, have nine and five guaranteed directorships, respectively.

Non-Guaranteed Directorships

The Bank Act also contemplates that certain states may be allocated directorships beyond the minimum number guaranteed by the Bank Act. The additional directorships result either from the amount of Bank stock held by the members located in a particular state or from the Finance Board's exercise of its authority to create discretionary directorships pursuant to Section 7(a) of the Bank Act. Those seats are not permanently allocated to a particular state and may be redesignated from year to year as representing members in another state; they also could be eliminated entirely. Most of the Banks have such directorships allocated to one or more states within their district, which the proposed rule would define as ''non-guaranteed directorships''. The proposed rule also would define the two distinct sub-groups of non-guaranteed directorships as: (1) ''discretionary directorships,'' *i.e.,* an elected or appointed directorship created by the Finance Board pursuant to Section 7(a) in districts with five or more states; and (2) ''stock directorships,'' *i.e.,* an elected directorship allocated to a state based on the amount of Bank stock held by the members located in that state, in addition to the minimum number of guaranteed directorships allocated to that state.

Staggering Process

The GLB Act requires that the board of each Bank be staggered into three approximately equal classes. Based on that directive, the proposed rule would first divide the guaranteed directorships at each Bank into three groups that are as nearly equal as possible. For the ten Banks that each have eight guaranteed directorships, that would result in three classes with: two directors, three directors, and three directors, respectively. For the New York Bank, with nine guaranteed directorships, the result would be three classes, each with three directorships; for the San Francisco Bank, with five guaranteed directorships, there would be three classes with one, two, and two directorships, respectively. Accordingly, for eleven of the Banks the maximum number of guaranteed directorships that could be grouped into a single ''class'', *i.e.,* a group of directorships with terms expiring on the same date, would be three; for the San Francisco Bank the maximum number would be two.

The Finance Board considered attempting to establish a staggering methodology that could apply to the entire board of both appointed and elected directors, rather than the proposed method that focuses on the guaranteed directorships. Because of the differences between the two types of directors, *i.e.,* the different manner of selection, the different interests represented, and the state-based restrictions that apply only to the elected directors, the Finance Board determined that the better approach would be to build the staggered board on the foundation of guaranteed directorships, with non-guaranteed directorships and appointed directorships being assigned adjusted terms, as necessary to result in the approximate one-third staggering required by the GLB Act.

With regard to both the non-guaranteed and the appointed directorships, the terms would be adjusted only as necessary to achieve the appropriately staggered board. For example, eight of the Banks have six appointed directorships each. As the terms for the existing appointed directorships expire over the next two years, *i.e.,* for the first post-GLB Act appointments, the Finance Board intends to adjust the terms of however many successor directorships are necessary to group the appointed directorships into three classes of two directors each. Because the three groups would be equal in number, there would be no effect on the staggering for the boards of those Banks. Similarly, with regard the other four Banks (three of which have eight appointed directorships and one of which has seven), the Finance Board intends to adjust the terms of those additional directorships as necessary to cause the entire board to be appropriately staggered. The Finance Board already has begun that process with the appointments for directorships commencing on January 1, 2000, and intends to follow the same approach with respect to the appointed directorships with terms commencing on January 1, 2001 and 2002, respectively.

Based initially on the maximum number of guaranteed directorships that may be included in a single class, the Finance Board has created a matrix for each Bank that indicates how the existing classes of elected directorships would be divided in order to create three classes of directorships of approximately equal size. The proposed rule would require the board of directors of each Bank to adjust the terms of directorships that commence on January 1, 2001 and January 1, 2002 in accordance with the matrix for that Bank, as described below. Each matrix groups the directorships based on their current status, *i.e.,* one group whose terms will commence on January 1, 2001, and a second group whose terms will commence on January 1, 2002. Within those two groups, the matrices indicate the states to which each directorship would be designated, the length of the term assigned to each directorship (commencing on January 1, 2001 or January 1, 2002, respectively), and whether the seat is ''non-guaranteed,'' *i.e.,* either a discretionary directorship or a stock directorship. The matrices are based on the designation of directorships conducted in 1999, which is the most recent designation available. The matrices to be published in connection with the final rule would show the designation of directorships based on the amount of stock held by the members of each Bank as of December 31, 1999. The Finance Board also intends to provide updated matrices next year, in conjunction with the then-current designation of directorships.

With regard to the directorships commencing on January 1, 2001, each matrix assigns, or requires the board of directors of the Bank to assign, a three-year term to three of the guaranteed directorships (two directorships, in the case of San Francisco), which is the maximum number of guaranteed directorships allowed for any one class of directors. Each of the remaining guaranteed directorships with terms commencing on January 1, 2001 is assigned a two-year term; those directorships would establish, at least in part, the third class of directorships required by the GLB Act. The matrix applies the same methodology to the class of guaranteed directorships with terms commencing on January 1, 2002, except that the shortened terms would be for one year, rather than for two years. The Finance Board believes that assigning the three-year terms to the maximum number of guaranteed directorships possible in any one class is consistent with the GLB Act, which authorizes the adjustment of the term of a directorship only as necessary to achieve the required one-third staggering of the board.

For example, the Pittsburgh Bank has four guaranteed directorships with terms commencing on January 1, 2001. The matrix indicates that three of those seats—the maximum number of guaranteed directorships in any one class—are to have the full three-year term and the one remaining directorship is to have a two-year term. The Pittsburgh Bank also has four other guaranteed directorship with terms commencing on January 1, 2002. Again, the matrix indicates that three of those seats—the maximum number of guaranteed directorships per class—receive a full three-year term, with the fourth directorship receiving a one year term. As a result, the Bank would achieve the required ''2–3–3'' staggering of its guaranteed directorships by adjusting the terms of only two of the eight guaranteed directorships. Thus, the Bank would have one class of two directorships with terms expiring on December 31, 2002, one class of three directorships with terms expiring on December 31, 2003, and one class of three directorships with terms expiring on December 31, 2004. Though not indicated on the matrix, the Finance Board would adjust the terms of the appointed directorships for the Pittsburgh Bank as necessary to create three classes of two directors each, which would result in the entire board being grouped into classes of ''4–5–5'', which is the closest to the one-third staggering that can be achieved with a fourteen director board.

The matrix for the Pittsburgh Bank also illustrates the different methods by which a directorship is to be assigned a shortened term, one of which is based on the votes cast by the members and the other of which is based on the number of states with directorships at issue. In the case of the four directorships commencing on January 1, 2001, each directorship is designated as representing the members located in

Pennsylvania. In such a case, *i.e.*, where a reduced term must be assigned to one of several directorships from the same state, the proposed rule requires that the assignment be based on the number of votes each director-elect receives in the most recent election. Thus, in the class of directorships commencing on January 1, 2001, the director-elect from Pennsylvania who receives the fourth most votes would be assigned to the two-year term. The same methodology would apply whenever a choice must be made between two or more directorships from the same state, whether the issue is which seat is to receive a reduced term or which seat is to be designated as a ''non-guaranteed'' directorship.

The methodology for assigning the one reduced term among the directorships with terms commencing on January 1, 2002, however, would differ somewhat from that used for the prior class. In this case, three of the four guaranteed directorships at issue would be from different states: West Virginia, Delaware, and Pennsylvania (which has two guaranteed directorships in this class). Here, again, no more than three of the guaranteed directorships may be assigned a full three-year term, and one must receive a reduced term, which in this case would be for one year. Where the number of states is the same as the number of full-term directorships available, as is the case here, the matrix assigns one full term to each state. The matrices reflect a determination by the Finance Board that to the extent possible each state should be treated equally in the assignment of three-year terms. For that reason, the matrix does not allow both Pennsylvania directorships to receive a full term, as that could not occur unless one of the remaining states—Delaware or West Virginia—were to receive the one-year term. With regard to the two Pennsylvania directorships, the board of directors of the Bank would be required to assign the one-year term to the director-elect from Pennsylvania who receives the second highest number of votes, as described in the preceding paragraph.

For certain other Banks, the methods used for the Pittsburgh Bank would not work because the number of states with guaranteed directorships would be greater than the number of three-year terms that are available. In that case, the proposed rule would require the board of directors of the Bank to assign the full three-year terms and the reduced terms among the guaranteed directorships from the different states; *i.e.,* the three full three-year terms would be allocated among four or five states. Where several states are involved, each directorship has a different constituency and thus the number of votes received by each candidate cannot be used to rank them. Also, because the number of states with guaranteed directorships is greater than the number of three-year terms available, not all of the states can be treated equally, as was the case with the Pittsburgh Bank. Where equal treatment for all states would not be possible, the Finance Board believes that it would be most appropriate, as well as consistent with the GLB Act, for the board of directors of each Bank to make the determination as to which states' directorships should be assigned the reduced term. The matrices reflect that provision, noting that the board of the Bank would be required to select one (and in some cases, two) states that would receive a reduced term. (As noted earlier, the boards must make this decision before determining the effect to be given to the 1999 election results.)

For example, the Atlanta Bank has four guaranteed directorships, representing the members in the District of Columbia, Alabama, Virginia, and South Carolina, with terms commencing on January 1, 2001. Only three of those seats may receive a full three-year term; the remaining directorship must receive a two-year term in order to comply with the staggering requirement. In this case, the matrix indicates that the board of the Atlanta Bank must decide which of those four directorships is to be assigned a two-year term. The proposed rule provides that the manner in which the board of directors assigns the reduced term to a particular state is entirely within its discretion, so long as the method is reasonable and is used consistently. Thus, the rule would allow the board to adopt some objective basis for making the determination or to assign the terms randomly, such as through a lottery among the affected states.

The Finance Board recognizes that certain directors may have an interest in which state's directorship is to be assigned a reduced term, but has not proposed to require that the decision be made only by the disinterested directors. In any case, the individuals who may be at risk of having their next term (or the term of their successors) reduced will likely be a minority not only of the elected directors but of the whole board as well. Moreover, all of the appointed directors, who are disinterested in these matters, must be involved in these determinations. The Finance Board believes that those factors, along with the fiduciary duties of all directors to act in the best interests of the Bank, are sufficient safeguards for the process. Nonetheless, the Finance Board requests comment on whether it would be advisable to require such determinations be made only by the disinterested directors, or to include a ''safe harbor'' proviso in the final rule that would allow an interested director, *i.e.,* a director whose directorship may be at risk of being assigned a reduced term, to participate in the decision without being deemed to violate the conflict of interest regulations or the conflict policies of the Bank.

For some Banks neither of the above scenarios will apply because the guaranteed directorships will consist in part of directorships representing different states and in part of multiple directorships from the same state; *i.e.,* there are two or more states with guaranteed directorships at issue, and one or more of those states has more than one directorship open. For example, the Boston Bank has five guaranteed directorships with terms commencing on January 1, 2001: two are designated to Massachusetts, and one each is designated to Connecticut, Rhode Island, and Maine. There also is one non-guaranteed directorship open, which is a stock seat allocated to Connecticut. Because there are three three-year terms to be allocated among four states, the board of directors of the Bank first must determine which one of the four states is to receive the two-year term, as described above with regard to the Atlanta Bank. After doing so, the board then would make any necessary distinctions between directorships from the same state on the basis of the votes received, as in the case of the Pittsburgh Bank. Thus, assuming that the board had assigned one of the three-year terms to one of the two Massachusetts directorships, the board would assign the Massachusetts director-elect who received the most votes to the three-year term. The other guaranteed directorship from Massachusetts would be assigned to the director-elect who received the second highest number of votes. Similarly, the matrix indicates that one of the Connecticut directorships is to be a ''non-guaranteed'' directorship, while the other is to be a ''guaranteed'' directorship. The proposed rule would require the board of the Boston Bank to assign the non-guaranteed directorship to the Connecticut director-elect who received the second highest number of votes in the election; the Connecticut director-elect who received the most votes then would be assigned to the ''guaranteed'' directorship.

With regard to the non-guaranteed directorships, the proposed rule also would provide that once a directorship is designated as non-guaranteed it

would retain that status in all subsequent elections unless it is eliminated by the Finance Board (in the case of a discretionary directorship) or as a consequence of a shift in the relative amounts of Bank stock held by members in different states. If, in connection with a subsequent annual designation of directorships, a directorship allocated to a particular state were to be eliminated or redesignated as representing the members in another state, the non-guaranteed directorship from that state would be the directorship that would have to be eliminated or redesignated.

With regard to the non-guaranteed directorships, the matrices have assigned terms to those directorships in a manner that is consistent with the one-third staggering requirement of the GLB Act, as noted previously. For example, the two non-guaranteed directorships at the Boston Bank have been assigned two- and one-year terms, respectively, which both places them into the same class of directors and results in a ''4–3–3'' class structure, which is consistent with the GLB Act. In the event that one or both of those directorships were to be eliminated, the elected directorships would be grouped either into a ''3–3–3'' class structure or the ''2–3–3'' structure of the guaranteed directorships, thus maintaining the one-third staggering of the board.

Eligibility of Directors

The proposed rule also would amend provisions regarding the eligibility of directors to remain in office if the directorship to which they have been elected is redesignated as representing members in another state or is eliminated. As noted above, it is possible that shifting stock ownership among the members in different states could cause the designation of a directorship to change during the course of an incumbent's term of office, or for the seat to disappear. The proposed rule would provide that an elected director becomes ineligible to remain in office if the directorship is designated to another state during that director's term of office or if the directorship is eliminated. The loss of eligibility would take effect on December 31 of the year in which the redesignation occurs.

In the case of a redesignation to another state, the directorship would become vacant and the board of directors of the Bank would fill the vacant directorship for the remainder of the unexpired term in accordance with Section 7(f) of the Bank Act with an officer or director of a member located in the newly-designated state. The proposed rule would make a similar change to the provisions regarding appointed directors, providing that if an appointed directorship that has been created in conjunction with the creation of additional elected directorships in accordance with Section 7(a) of the Bank Act the term of office of the appointed director would terminate on December 31 of the year in which the directorship is terminated.

Conforming Amendments

The proposed rule also includes a number of conforming amendments to other provisions of the regulations to remove references that no longer are accurate in light of the GLB Act and to be consistent with the other elements of the proposed rule.

IV. Regulatory Flexibility Act

The proposed rule would apply only to the Finance Board and to the Federal Home Loan Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Thus, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that the proposed rule, if promulgated as a final rule, will not have a significant impact on a substantial number of small entities.

V. Paperwork Reduction Act

The proposed rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. See 44 U.S.C. 3501 *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 915

Banks, banking, Conflict of interests, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Reporting and recordkeeping requirements.

Accordingly, the Federal Housing Finance Board hereby amends title 12, chapter IX, part 915 of the Code of Federal Regulations, as follows:

PART 915—DIRECTORS, OFFICERS, AND EMPLOYEES OF THE BANKS

1. The authority citation for part 915 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1427, and 1432.

2. Amend § 915.1 by revising the second paragraph of the definition of ''bona fide resident of a Bank district'' and by adding in alphabetical order definitions of ''discretionary directorship'', ''guaranteed directorship'', ''non-guaranteed directorship'', and ''stock directorship'' to read as follows:

§ 915.1 Definitions.

* * * * *

Bona fide resident of a Bank district means an individual who:

* * * * *

(2) If serving as an elective director, is an officer or director of a member located in a voting state within the Bank district; or

* * * * *

Discretionary directorship means an elected or appointed directorship created by the Finance Board pursuant to Section 7(a) of the Act for districts that include five or more states.

Guaranteed directorship means a directorship that is required by Section 7(a) of the Act and § 915.15 to be designated as representing Bank members that are located in a particular state.

Non-guaranteed directorship means an elected directorship that is either a discretionary directorship or a stock directorship.

Stock directorship means an elected directorship that is designated by the Finance Board as representing the members located in a particular state based on the amount of Bank stock held by the members in that state, and which is in excess of the number of guaranteed directorships allocated to that state.

3. Amend § 915.3 by:

a. Revising the fourth sentence of paragraph (a);

b. Adding a new sentence at the end of paragraph (b)(5);

c. Revising the second sentence in paragraph (c); and

d. Removing paragraph (e) to read as follows:

§ 915.3 Director elections.

(a) * * * The term of office of each elective director shall be three years, except as adjusted pursuant to Section 7(d) of the Act and § 915.17 of this chapter to achieve a staggered board, and shall commence on January 1 of the calendar year immediately following the year in which the election is held.

* * *

(b) * * *

(5) * * * If, as part of the annual designation of directorships, the Finance Board eliminates or redesignates to another state an existing discretionary directorship, the term of the directors appointed or elected to the eliminated or redesignated directorship shall terminate on the immediately following December 31.

(c) * * * If the annual designation of elective directorships results in an existing directorship being redesignated

as representing members in a different state, the notice also shall state that the directorship must be filled by an officer or director of a member located in the newly designated state as of January 1 of the immediately following year, regardless of whether the term for the incumbent director would have expired by that date.

* * * * *

4. Amend § 915.7, by adding a new paragraph (d), to read as follows:

§ 915.7 Eligibility requirements for elective directors.

* * * * *

(d) *Loss of eligibility.* (1) An elected director shall become ineligible to remain in office if, during his or her term of office, the directorship to which he or she has been elected is eliminated or is redesignated by the Finance Board as representing members located in another state, in accordance with § 915.3(b). The incumbent director shall become ineligible on December 31 of the year in which the directorship is redesignated or eliminated.

(2) In the case of a redesignation to another state, the directorship shall become vacant on December 31 of the year in which the directorship is redesignated and the resulting vacancy shall be filled by the board of directors of the Bank for the remainder of the unexpired term with a person who is an officer or director of a member located in the newly designated state, pursuant to Section 7(f) of the Bank Act.

5. Amend § 915.10, by revising paragraph (b), to read as follows:

§ 915.10 Selection of appointive directors.

* * * * *

(b) *Term of office.* The term of office of each appointive directorship shall be three years, except as adjusted pursuant to Section 7(d) of the Act to achieve a staggered board, and shall commence on January 1. In appointing directors for the terms commencing on January 1, 2001 and 2002, respectively, the Finance Board shall adjust the terms of any appointed directorships as necessary to achieve the one-third staggering of the board of directors required by Section 7(d) of the Act, in accordance with the requirements of this Part and the applicable matrix from the Appendix to this Part. In the case of an appointive directorship that is terminated pursuant to § 915.3(b)(5), the term of office of the directorship shall end on December 31 of that year.

6. Add new § 915.16 to read as follows:

§ 915.16 1999 and 2000 Election of Directors.

(a) *In general.* If the annual designation of Bank directorships conducted by the Finance Board pursuant to § 915.3(b) for the terms commencing on January 1, 2001 differs from the designation conducted for the terms that were to have commenced on January 1, 2000, the former shall control. If for any election the board of directors of a Bank is required by § 915.17(a)(3) to assign a shortened term to one or more directorships from different states, the board shall do so before determining under paragraph (b) of this section whether to adopt the 1999 election results or to hold new elections in 2000.

(b) *Conduct of 2000 elections.* After receipt of the designation of directorships conducted by the Finance Board for directorships with terms commencing on January 1, 2001, the board of directors of each Bank shall determine either:

(1) To conduct new elections for every state in the district for which an elected directorship is to commence on January 1, 2001, or

(2) To conduct new elections only in those states for which this section requires a new election to be held and, for all other states within the district, to use the results of the 1999 elections, for the purpose of electing directors whose terms are to commence on January 1, 2001.

(c) *1999 election results.* If the number of nominees from any state for the 1999 election of directors equals or exceeds the number of directorships designated to that state for terms commencing on January 1, 2001, the board of directors of the Bank may declare elected the nominee receiving the most votes in the 1999 election and, if more than one directorship is to be filled for that state, shall also declare elected each successive nominee receiving the next greatest number of votes, until all directorships designated for that state are filled. Before declaring elected any such nominee, the board of directors of the Bank shall confirm that the nominee is eligible to serve as a director from that state.

(d) *2000 elections.* If the number of directorships designated for any state by the Finance Board for terms commencing on January 1, 2001, exceeds the number of that state's nominees from the 1999 election who remain eligible to serve as a Bank director, then the board of directors of the Bank shall conduct a new election for that state for all of the directorships that have terms commencing on January 1, 2001.

(e) *Report of election.* If the board of directors of a Bank adopts the 1999 election results for any state, it shall provide written notice of its decision to the Finance Board, the directors-elect, and to each member in the affected state. The notice shall indicate the date on which the term of office of each director-elect shall expire, and shall indicate which terms have been adjusted in order to stagger the board of directors as required by Section 7(d) of the Bank Act. Any such adjustments shall be made in compliance with § 915.17. Such notice shall be deemed to constitute the report of election for the 2000 election required by § 915.8(e).

7. Add new § 915.17 to read as follows:

§ 915.17 Staggered directorships in the 2000 and 2001 elections.

(a) *In general.* (1) In conjunction with the annual designation of directorships for directors with terms commencing on January 1, 2001 and January 1, 2002, the Finance Board shall, in addition to allocating directorships among the states, indicate the term of each directorship and which directorships are to be designated as non-guaranteed directorships. A non-guaranteed directorship shall retain that designation in all subsequent elections, unless the directorship is eliminated by the Finance Board pursuant to Section 7(a) of the Bank Act or as a consequence of a change in the amount of Bank stock held by members located in that state.

(2) The board of directors of each Bank shall adjust the terms of any directorships that are to commence on January 1, 2001 or January 1, 2002, in accordance with this section and the matrix for that Bank set forth in the Appendix to this part.

(3) Where the matrix for a Bank indicates that two or more guaranteed directorships are to be filled by persons elected from different states in the same year, and which are to have different terms, the board of directors of the Bank shall assign the shorter terms among the states on any reasonable basis, as determined by Bank's board, provided that:

(i) It uses the same methodology in making all such adjustments; and

(ii) It assigns the terms to the respective states before determining whether to adopt the 1999 election results, in accordance with § 915.16(b).

(b) *Adjustment of terms.* (1) Where the matrix for a Bank indicates that two or more guaranteed directorships are to be filled from the same state in the same year, but which are to have different terms, the board of directors of the Bank shall assign the terms, among the

eligible nominees who have received a sufficient number of votes to be elected, such that the nominees receiving the greater number of votes are assigned the longer terms and those nominees receiving the lesser number of votes are assigned the shorter terms.

(2) In the elections occurring in 2000 and 2001, if the matrix for any Bank indicates that both guaranteed and non-guaranteed directorships are to be filled from the same state in the same year, the board of directors shall assign directorships, among the eligible nominees who have received a sufficient number of votes to be elected, such that the nominees receiving the greatest number of votes are assigned the guaranteed directorships and those nominees receiving the fewest votes are assigned the non-guaranteed directorships.

(c) *Other adjustments.* The board of directors of the Bank may not adjust the term of any director other than as provided in this section.

8. Add a new appendix to part 915 to read as follows:

Appendix to Part 915—Staggering For FHL Bank Boards of Directors

TABLE 1

Boston FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
10 Seats: 8 Guaranteed by Statute and 2 Not Guaranteed			
6 Seats to be filled in 2000 Election			
	*Board must allocate 1 Seat to a 2-year term.		
Mass. Seat	3/2 Years*.		
Conn. Seat	3/2 Years*.		
Maine Seat	3/2 Years*.		
R. I. Seat	3/2 Years*.		
Mass. Seat	2 Years.		
Conn. Seat	2 Years	Not Guaranteed (Stock seat).	
4 Seats to be filled in 2001 Election			
Mass. Seat	3 Years.		
N.H. Seat	3 Years.		
Vermont Seat	3 Years.		
Mass. Seat	1 Year	Not Guaranteed (Discretionary Seat).	

Class with Terms Expiring Dec. 31, 2002 (4 seats)
Mass./Conn./Maine/Rhode Island Seat (board to pick 1 of 4)
Mass. Seat
Conn. Seat (not guaranteed by statute)
Mass. Seat (not guaranteed by statute)
Class with Terms Expiring Dec. 31, 2003 (3 seats)
Mass./Conn./Maine/Rhode Island Seat (board to pick 3 of 4)
Class with Terms Expiring Dec. 31, 2004 (3 seats)
Mass. Seat
N.H. Seat
Vermont Seat

TABLE 2

N.Y. FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 3–3–3 Total staggering: 3–4–4
11 Seats: 9 Guaranteed by Statute and 2 Not Guaranteed			
7 Seats to be filled in 2000 election			
New York Seat	3 Years.		
New Jersey Seat	3 Years.		
Puerto Rico Seat	3 Years.		
New York Seat	3 Years	Not Guaranteed (Stock Seat).	
New York Seat	2 Years.		
New York Seat	2 Years.		
New Jersey Seat	2 Years.		
4 Seats to be filled in 2001 election			
New York Seat	3 Years.		
New York Seat	3 Years	Not Guaranteed (Stock Seat).	
New Jersey Seat	3 Years.		
New Jersey Seat	3 Years.		

Class with Terms Expiring Dec. 31, 2002 (3 seats)
New York Seat
New York Seat
New Jersey Seat

Class with Terms Expiring Dec. 31, 2003 (4 seats)
New York Seat
New York Seat (not guaranteed by statute)
New Jersey Seat
Puerto Rico Seat

Class with Terms Expiring Dec. 31, 2004 (4 seats)
New York Seat
New York Seat (not guaranteed by statute)
New Jersey Seat
New Jersey Seat

TABLE 3

Pitts. FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 2–3–3
8 Seats: All Guaranteed by Statute			
4 Seats to be filled in 2000 Election			
Penn. Seat	3 Years.		
Penn. Seat	3 Years.		
Penn. Seat	3 Years.		
Penn. Seat	2 Years.		
4 Seats to be filled in 2001 Election			
West Va. Seat	3 Years.		
Delaware Seat	3 Years.		
Penn. Seat	3 Years.		
Penn. Seat	1 Year.		

Class with Terms Expiring Dec. 31, 2002 (2 seats)
Penn. Seat
Penn Seat

Class with Terms Expiring Dec. 31, 2003 (3 seats)
Penn. Seat
Penn. Seat
Penn. Seat

Class with Terms Expiring Dec. 31, 2004 (3 seats)
Penn. Seat
Delaware Seat
West Va. Seat

TABLE 4

Atlanta FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 3–3–3
9 Seats: 8 Guaranteed by Statute and 1 Not Guaranteed			
4 Seats to be filled in 2000 Election			
	*Board must allocate 1 Seat to a 2-year term.		
D.C. Seat	3/2 Years*.		
Alabama Seat	3/2 Years*.		
Virginia Seat	3/2 Years*.		
S. Carolina Seat	3/2 Years*.		
5 Seats to be filled in 2001 Election			
	*Board must allocate 1 Seat to a 1-year term.		
N. Carolina Seat	3/1 Years*.		
Georgia Seat	3/1 Years*.		
Maryland Seat	3/1 Years*.		
Florida Seat	3/1 Years*.		
N. Carolina Seat	1 Year	Not Guaranteed (Discretionary Seat).	

Class with Terms Expiring Dec. 31, 2002 (3 seats)
North Carolina Seat (not guaranteed by statute)
D.C./Alabama/Virginia/So. Carolina Seat (board to pick 1 of 4)
No. Carolina/Georgia/Maryland/Florida Seat (board to pick 1 of 4)

Class with Terms Expiring Dec. 31, 2003 (3 seats)
D.C./Alabama/Virginia/So. Carolina Seat (board to pick 3 of 4)

Class with Terms Expiring Dec. 31, 2004 (3 seats)
No. Carolina/Georgia/Maryland/Florida Seat (board to pick 3 of 4)

TABLE 5

Cincinnati FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 3–3–3
9 Seats: 8 Guaranteed by Statute and 1 Not Guaranteed			
4 Seats to be filled in 2000 Election			
	*Board must allocate 1 Seat to a 2-year term.		
Kentucky Seat	3 Years.		
Ohio Seat	3 Years.		
Kentucky Seat	3/2 Years*.		
Ohio Seat	3/2 Years*.		
5 Seats to be filled in 2001 Election			
	*Board must allocate 1 Seat to a 1-year term.		
Ohio Seat	3 Years.		
Tennessee Seat	3 Years.		
Tennessee Seat	3/1 Years*.		
Ohio Seat	3/1 Years*.		
Ohio Seat	1 Year	Not Guaranteed (Stock Seat).	

Class with Terms Expiring Dec. 31, 2002 (3 seats)
Kentucky or Ohio Seat (board to decide)
Ohio Seat (not guaranteed by statute)
Tennessee or Ohio Seat (board to decide)

Class with Terms Expiring Dec. 31, 2003 (3 seats)
Kentucky Seat
Ohio Seat
Kentucky or Ohio Seat (board to decide)

Class with Terms Expiring Dec. 31, 2004 (3 seats)
Ohio Seat
Tennessee Seat
Tennessee or Ohio Seat (board to decide)

TABLE 6

Indianapolis FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
10 Seats: 8 Guaranteed by Statute and 2 Not Guaranteed			
4 Seats to be filled in 2000 Election			
Indiana Seat	3 Years.		
Indiana Seat	3 Years.		
Michigan Seat	3 Years.		
Indiana Seat	2 Years.		
6 Seats to be filled in 2001 Election			
	*Board must allocate 1 Seat to a 1-year term.		
Michigan Seat	3 Years.		
Indiana Seat	3 Years.		
Michigan Seat	3/1 Years*.		
Indiana Seat	3/1 Years*.		
Michigan Seat	1 Year	Not Guaranteed (Stock Seat).	
Michigan Seat	1 Year	Not Guaranteed (Stock Seat).	

Class with Terms Expiring Dec. 31, 2002 (4 seats)
Indiana Seat
Michigan or Indiana Seat (board to decide)
Michigan Seat (not guaranteed by statute)
Michigan Seat (not guaranteed by statute)

Class with Terms Expiring Dec. 31, 2003 (3 seats)
Indiana Seat
Indiana Seat
Michigan Seat

Class with Terms Expiring Dec. 31, 2004 (3 seats)
Michigan Seat
Indiana Seat
Michigan or Indiana Seat (board to decide)

TABLE 7

Chicago FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
10 Seats: 8 Guaranteed by Statute and 2 Not Guaranteed			
4 Seats to be filled in 2000 Election			
Illinois Seat	3 Years.		
Wisconsin Seat	3 Years.		
Wisconsin Seat	3 Years.		
Wisconsin Seat	2 Years.		
6 Seats to be filled in 2001 Election			
Wisconsin Seat	3 Years.		
Illinois Seat	3 Years.		
Illinois Seat	3 Years.		
Illinois Seat	1 Year.		
Illinois Seat	1 Year	Not Guaranteed (Stock Seat).	
Illinois Seat	1 Year	Not Guaranteed (Stock Seat).	

Class with Terms Expiring Dec. 31, 2002 (4 seats)
Wisconsin Seat
Illinois Seat
Illinois Seat (not guaranteed by statute)
Illinois Seat (not guaranteed by statute)

Class with Terms Expiring Dec. 31, 2003 (3 seats)
Illinois Seat
Wisconsin Seat
Wisconsin Seat

Class with Terms Expiring Dec. 31, 2004 (3 seats)
Wisconsin Seat
Illinois Seat
Illinois Seat

TABLE 8

Des Moines Bank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
10 Seats: 8 Guaranteed by Statute and 2 Not Guaranteed			
6 Seats to be filled in 2000 Election			
	*Board must allocate 1 Seat to a 2-year term.		
Missouri Seat	3/2 Years*.		
South Dakota Seat	3/2 Years*.		
Iowa Seat	3/2 Years*.		
Minnesota Seat	3/2 Years*.		
Iowa Seat	2 Years.		
Minnesota Seat	2 Years	Not Guaranteed (Stock Seat).	
4 Seats to be filled in 2001 Election			
Missouri Seat	3 Years.		
Minnesota Seat	3 Years.		
North Dakota Seat	3 Years.		
Missouri Seat	1 Year	Not Guaranteed (Discretionary Seat).	

Class with Terms Expiring Dec. 31, 2002 (4 seats)
Iowa Seat
Missouri/So. Dakota/Iowa/Minnesota Seat (board to pick 1 of 4)
Minnesota Seat (not guaranteed by statute)
Missouri Seat (not guaranteed by statute)

Class with Terms Expiring Dec. 31, 2003 (3 seats)
Missouri/So. Dakota/Iowa/Minnesota Seat (board to pick 3 of 4)

Class with Terms Expiring Dec. 31, 2004 (3 seats)
Missouri Seat
Minnesota Seat
North Dakota Seat

TABLE 9

Dallas FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 3–3–3
9 Seats: 8 Guaranteed by Statute and 1 Not Guaranteed			
4 Seats to be filled in 2000 Election			
Texas Seat	3 Years.		
Louisiana Seat	3 Years.		
Arkansas Seat	3 Years.		
Louisiana Seat	2 Years.		
5 Seats to be filled in 2001 Election			
Texas Seat	3 Years.		
Mississippi Seat	3 Years.		
New Mexico Seat	3 Years.		
Texas Seat	1 Year.		
Texas Seat	1 Year	Not Guaranteed (Stock Seat).	

Class with Terms Expiring Dec. 31, 2002 (3 seats)
Louisiana Seat
Texas Seat
Texas Seat (not guaranteed by statute)

Class with Terms Expiring Dec. 31, 2003 (3 seats)
Texas Seat
Louisiana Seat
Arkansas Seat

Class with Terms Expiring Dec. 31, 2004 (3 seats)
Texas Seat
Mississippi Seat
New Mexico Seat

TABLE 10

Topeka FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 2–3–3
10 Seats: 8 Guaranteed by Statute and 2 Not Guaranteed			
5 Seats to be filled in 2000 Election			
Colorado Seat	3 Years.		
Oklahoma Seat	3 Years.		
Kansas Seat	3 Years.		
Colorado Seat	2 Years.		
Kansas Seat	2 Years.		
5 Seats to be filled in 2001 Election			
Kansas Seat	3 Years.		
Oklahoma Seat	3 Years.		
Nebraska Seat	3 Years.		
Nebraska Seat	1 Year	Not Guaranteed (Stock Seat).	
Oklahoma Seat	1 Year	Not Guaranteed (Stock Seat).	

Class with Terms Expiring Dec. 31, 2002 (4 seats)
Colorado Seat
Kansas Seat
Nebraska Seat (not guaranteed by statute)
Oklahoma Seat (not guaranteed by statute)

Class with Terms Expiring Dec. 31, 2003 (3 seats)
Colorado Seat
Oklahoma Seat
Kansas Seat

Class with Terms Expiring Dec. 31, 2004 (3 seats)
Kansas Seat
Oklahoma Seat
Nebraska Seat

TABLE 11

San Francisco FHLBank	Terms	Non-guaranteed seats	Guaranteed staggering: 1–2–2 Total staggering: 2–3–3
8 Seats: 5 Guaranteed by Statute and 3 Not Guaranteed			
4 Seats to be filled in 2000 Election			

TABLE 11—Continued

San Francisco FHLBank	Terms	Non-guaranteed seats	Guaranteed staggering: 1–2–2 Total staggering: 2–3–3
California Seat	3 Years..		
California Seat	3 Years..		
California Seat	3 Years	Not Guaranteed (Stock Seat).	
California Seat	2 Years	Not Guaranteed (Stock Seat).	
4 Seats to be filled in 2001 Election			
	*Board must allocate 1 seat to a 1-year term.		
California Seat	3/1 Years*.		
Nevada Seat	3/1 Years*.		
Arizona Seat	3/1 Years*.		
California Seat	1 Year	Not Guaranteed (Stock Seat).	

Class with Terms Expiring Dec. 31, 2002 (3 seats)
California/Nevada/Arizona Seat (board to pick 1 of 3)
California Seat (not guaranteed by statute)
California Seat (not guaranteed by statute)
Class with Terms Expiring Dec. 31, 2003 (3 seats)
California Seat
California Seat
California Seat (not guaranteed by statute)
Class with Terms Expiring Dec. 31, 2004 (2 seats)
California/Nevada/Arizona Seat (board to pick 2 of 3)

TABLE 12

Seattle FHLBank	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
10 Seats: 8 Guaranteed by Statute and 2 Not Guaranteed			
5 Seats to be filled in 2000 Election			
Hawaii Seat	3 Years.		
Utah Seat	3 Years.		
Alaska Seat	3 Years.		
Washington Seat	2 Years	Not Guaranteed (Discretionary Seat).	
Washington Seat	2 Years	Not Guaranteed (Discretionary Seat).	
5 Seats to be filled in 2001 Election			
	* Board must allocate 2 seats to 1-year terms.		
Montana Seat	3/1 Years*.		
Oregon Seat	3/1 Years*.		
Washington Seat	3/1 Years*.		
Idaho Seat	3/1 Years*.		
Wyoming Seat	3/1 Years*.		

Class with Terms Expiring Dec. 31, 2002 (4 seats)
Montana/Oregon/Idaho/Wyoming/Washington Seat (board to pick 2 of 5)
Washington Seat (not guaranteed by statute)
Washington Seat (not guaranteed by statute)
Class with Terms Expiring Dec. 31, 2003 (3 seats)
Hawaii Seat
Utah Seat
Alaska Seat
Class with Terms Expiring Dec. 31, 2004 (3 seats)
Montana/Oregon/Idaho/Wyoming/Washington Seat (board to pick 3 of 5)

Dated: February 23, 2000.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 00–8052 Filed 3–31–00; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–13–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CT58 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive that would supersede two existing airworthiness directives (AD's), applicable to General Electric Company (GE) CT58 series turboshaft engines. The current AD's revised the counting method for hours in repetitive heavy-lift (RHL) service and reduced the life limit for rotating components. Life-limited rotating components must be removed from service in accordance with the multiplying factors and retirement lives contained in General Electric Alert Service Bulletin (ASB) CT58 A72–162 (CEB–258), dated July 9, 1979. This proposal would require applying an additional multiplying factor to life-limited rotating parts when the engine is used in heavy lifting operations. This proposal is prompted by a review of the current AD's, 69–23–02 and 79–23–04, and a determination that the requirements of those AD's may conflict. This AD would prevent RHL and utility service multiplier factors from being applied incorrectly. The actions specified in the proposed AD are intended to prevent low-cycle fatigue failure of rotating parts that could result in uncontained engine failure and damage to the helicopter.

DATES: Comments must be received by June 2, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–13–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9–ane–adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from GE Aircraft Engines, General Electric Company, 1000 Western Avenue, Lynn, MA 01910. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Kevin Donovan, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7743, fax (781) 238–7199.

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 should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, 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–NE–13–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–13–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On November 4, 1969, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 69–23–02, Amendment 39–870 (34FR 18296, November 15, 1969), to reduce the life limits for stage 2 compressor rotor disk shafts and to remove from service stage 2 compressor rotor disk shafts before reaching those reduced life limits. That action was prompted by analyses that indicated the need for a reduced life-limit for certain life-limited parts when the engine is used in repetitive heavy lift (RHL) operations. That condition, if not corrected, could result in low-cycle fatigue failure of rotating parts that could result in uncontained engine failure and damage to the helicopter.

On December 13, 1979, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 79–23–04, Amendment 39–3610 (44 FR 72103, December 13, 1979), to require that the life-limits of certain life-limited rotating parts be revised based on multiplying factors specified in GEAE alert service bulletin (ASB) (CT58) 72–162 CEB 258, dated July 9, 1979, for RHL operations. That action was prompted by the need for lower life limits for life-limited rotating parts that are installed on engines used for RHL operations. That condition, if not corrected, could result in low-cycle fatigue failure of rotating parts that could result in uncontained engine failure and damage to the helicopter.

Events Since the Issuing of AD 69–23–02 and AD 79–23–04

Since the issuance of those AD's, the FAA has determined that some operators may be applying the multiplying factors for RHL operations incorrectly because the requirements of AD 79–23–04 apparently conflict with the requirements of AD 69–23–02. The requirements contained in AD 79–23–04 should have superseded the hourly life limits contained in AD 69–23–02 and should have specified the use of GEAE ASB (CT58) 72–162 CEB 258 for all CT58 series engines.

Service Information

The FAA has reviewed and approved the technical contents of GEAE ASB (CT58) 72–162 CEB 258, revision 9, dated October 6, 1998, that describes procedures for calculating revised cyclic life limits from the hourly life limits based on multiplying factors when the engine is used in RHL and utility service operation.

Requirements of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other GEAE CT58 series turboshaft engines of the same type design, this AD supersedes AD 69–23–02 and AD 79–23–04 to require calculation of life cycles for life-limited rotating parts based on multipliers for RHL and utility service operation, and replacement of any part that exceeds the revised limits. The actions are required to be accomplished in accordance with the service bulletin described previously.

Economic Impact

There are approximately 380 engines of the affected design in the worldwide fleet. The FAA estimates that 130

engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 0.25 work hour per engine to accomplish the proposed calculations, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,950.

Regulatory Impact

This proposed rule does not have federalism implications, as defined in Executive Order (EO) No. 13132, because it would not have a substantial direct effect 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this proposed rule.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under EO No. 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 removing Amendment 39–1086 (34 FR 18296, October 15, 1970) and Amendment 39–3610 (44 FR 72103, December 13, 1979), and by adding a new airworthiness directive,

GE Aircraft Engines: Docket No. 99–NE–13–AD.

Applicability: GE Aircraft Engines CT58 series turboshaft engine installed on, but not limited to Boeing -Vertol V–107 series, Kaman UH–1F series; and Sikorsky CH/HH–3E series, S–61 A/L/N/R series, and S–62 series rotorcraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of thisAD 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 low-cycle fatigue failure of rotating parts that could result in uncontained engine failure and damage to the helicopter, accomplish the following:

Calculating New Life Limits for Rotating Parts

(a) Within 50 hours time-in-service (TIS) after the effective date of this AD, calculate the new cycles-since-new (CSN) for life-limited rotating parts in accordance with the Accomplishment Instructions, 2.A. through 2.G. of GEAE service bulletin (CT58)72–162 CEB–258, revision 9, dated October 6, 1998.

(b) Remove any part from service that exceeds the new caculated life limit and replace it with a serviceable part.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

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

Issued in Burlington, Massachusetts, on March 28, 2000.

David A. Downey,

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

[FR Doc. 00–8134 Filed 3–31–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 134

RIN 1515–AC32

Country of Origin Marking

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document provides an additional 30 days for interested members of the public to submit comments on the proposal to restructure and clarify the country of origin marking rules set forth in Part 134 of the Customs Regulations. The proposal was published in the **Federal Register** on January 26, 2000, and the comment period was scheduled to expire on March 27, 2000.

DATES: Comments on the proposal must be received on or before April 26, 2000.

ADDRESSES: Comments may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)) between 9:00 a.m. and 4:30 p.m. on normal business days at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Questions with regard to the following subject areas may be directed to the following staff attorneys of the Special Classification and Marking Branch, (202) 927–2310: Definitions of ''country,'' ''country of origin'' and ''ultimate purchaser''—Kristen VerSteeg; Marking of containers—Monika Brenner; and Marking and certification requirements for processed and repackaged articles—Burton Schlissel.

SUPPLEMENTARY INFORMATION:

Background

Customs published a document in the **Federal Register** (65 FR 4193) on January 26, 2000, proposing to restructure and clarify the country of origin marking rules set forth in Part 134 of the Customs Regulations.

The document invited the public to comment on the proposal. Comments on the proposed rule were requested on or before March 27, 2000.

Customs has received a request to extend the comment period for an additional 30 days from the Alliance of Automobile Manufacturers to enable the organization to coordinate its comment with its member companies.

Customs has determined to grant the request for the extension. Accordingly, the period of time for the submission of comments is being extended 30 days. Comments are now due on or before April 26, 2000.

Dated: March 29, 2000.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 00–8141 Filed 3–31–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 111

[Docket No. 95N–0304]

Dietary Supplements Containing Ephedrine Alkaloids; Withdrawal in Part

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; withdrawal in part.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is withdrawing certain provisions of a proposed rule that published in the **Federal Register** of June 4, 1997 (62 FR 30678), relating to dietary supplements containing ephedrine alkaloids. FDA is taking this action because of concerns regarding the agency's basis for proposing a certain dietary ingredient level and a duration of use limit for these products. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of new adverse event reports and related information associated with these products and its plans to participate in a public forum to discuss this new information at some future date. In addition, FDA is announcing elsewhere in this issue of the **Federal Register** the availability of additional documentation associated with certain adverse events referenced in the 1997 proposed rule.

DATES: The proposed rule that published on June 4, 1997 (62 FR 30678) is withdrawn in part for § 111.100(a), (b), (c), (e), and (f) as of April 3, 2000.

ADDRESSES: Copies of the proposed rule and related comments are available for public examination in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Marquita B. Steadman, Center for Food Safety and Applied Nutrition (HFS–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, 301–827–6733.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 4, 1997 (62 FR 30678), FDA published a proposed rule (hereinafter referred to as the ''ephedrine alkaloids proposal'') to establish that a dietary supplement is adulterated if it contains 8 milligrams (mg) or more of ephedrine alkaloids per serving, or if its labeling suggests or recommends conditions of use that would result in an intake of 8 mg or more within a 6-hour period or a total daily intake of 24 mg or more of ephedrine alkaloids (hereinafter referred to as ''dosing level'' or ''dietary ingredient level''), and to require that the label of such supplement state that the product is not to be used for more than 7 days (hereinafter referred to as ''duration of use limit''). The agency also proposed to prohibit the use of ephedrine alkaloids in dietary supplements with ingredients, or with ingredients that contain substances, that have a known stimulant effect, such as caffeine, which may interact with ephedrine alkaloids; and to prohibit labeling claims, such as weight loss or body building, that require long-term intake to achieve the purported effect. In addition, the agency proposed to require a statement to accompany claims that encourage short-term excessive intake to enhance a purported effect, such as an increase in energy, that taking more than the recommended serving may result in serious adverse health effects; and to require specific warning statements to appear on product labels.

The agency proposed these actions in response to reports of serious illnesses and injuries, including a number of deaths, associated with the use of dietary supplement products containing ephedrine alkaloids and the agency's investigations and assessment of these illnesses and injuries. This action was also supported by many of the recommendations made during the October 1995 meeting of an ad hoc Working Group of the FDA Advisory Committee (Working Group) and the August 1996 meeting of the Food Advisory Committee (FAC) and the Working Group concerning the potential public health problems associated with the use of dietary supplements containing ephedrine alkaloids and the recommended steps FDA should take to address the serious health concerns associated with their use (see Refs. 25 and 27 of the ephedrine alkaloids proposal (Docket No. 95N–0304)).

The comment period for the June 4, 1997 (62 FR 30678), proposed rule closed on August 18, 1997. In a notice in the **Federal Register** of August 20, 1997 (62 FR 44247), FDA announced its intent to reopen the comment period after the agency corrected a number of inadvertent omissions in the administrative record. Subsequently on September 18, 1997 (62 FR 48968), the agency reopened the comment period for an additional 75 days until December 2, 1997.

The agency received approximately 350 letters regarding the use of ephedrine alkaloid-containing dietary supplements prior to publication of the ephedrine alkaloids proposal. These comments have been considered by the agency along with those commenting in response to the proposal. The agency received approximately 14,775 comments on the ephedrine alkaloids proposal. Individual consumers who use ephedrine alkaloid-containing dietary supplements and independent distributors of these products submitted most of the comments. Other comments were received from persons who had, or who knew persons who had, suffered adverse events or who were reporting adverse events associated with the use of an ephedrine alkaloid-containing dietary supplement. The remaining comments included those submitted by medical professionals, scientists, a scientific association, State and local health departments, medical associations, government agencies, dietary supplement manufacturers, Chinese medicine practitioners and associations, dietary supplement industry trade associations, public health associations, and consumer groups.

The House Committee on Science requested that the Government Accounting Office (GAO) examine the scientific bases for the ephedrine alkaloids proposal and the agency's adherence to the regulatory flexibility analysis requirements for Federal rulemaking. On August 4, 1999, GAO released its report entitled ''Dietary Supplements: Uncertainties in Analyses Underlying FDA's Proposed Rule on Ephedrine Alkaloids.'' A copy of this

report is available in Docket No. 95N–0304.

Generally, GAO concluded that FDA was justified in determining that the number of adverse event reports relating to dietary supplements containing ephedrine alkaloids warranted the agency's attention and consideration of steps to address safety issues. However, GAO expressed concerns about the use of the reported adverse events in supporting the proposed dosing level and duration of use limit, and concluded that the agency needed additional evidence to support these restrictions.

GAO also concluded that FDA's economic analysis contained the basic elements expected in a Federal agency's cost-benefit analysis, and the ephedrine alkaloids proposal complied with regulatory flexibility analysis requirements under the Regulatory Flexibility Act. GAO noted, however, that FDA's cost-benefit analysis was not always transparent regarding why certain key assumptions were made, the degree of uncertainty involved in those assumptions, or the effect that alternative assumptions would have had on the agency's estimates of the costs and benefits of the proposed action.

GAO recommended that FDA ''provide stronger evidence on the relationship between the intake of dietary supplements containing ephedrine alkaloids and the occurrence of adverse reactions that support the proposed dosing level and duration of use limits.'' In addition, GAO recommended that FDA improve the transparency of its cost-benefit analysis in its final rulemaking.

In light of GAO's conclusions, comments from others on the ephedrine alkaloids proposal, and having further considered issues related to the proposed dietary ingredient level and the duration of use limit, FDA believes that these aspects of its proposed approach to regulating these products should be reassessed. Whether there are appropriate alternative approaches to these aspects of the proposal for regulating dietary supplements containing ephedrine alkaloids will require evaluation of additional information not available to the agency when it issued the proposal. Accordingly, FDA is withdrawing the provisions of the ephedrine alkaloids proposal relating to the dietary ingredient level and duration of use limit for these products. This action will allow FDA to reconsider, with public input, whether any dietary ingredient level or duration of use limit for these products is appropriate or whether alternative measures should be considered. The withdrawn provisions are described briefly below.

II. Withdrawn Provisions of the Ephedrine Alkaloids Proposal

A. Dietary Ingredient Limit for Ephedrine Alkaloids: Per Serving Basis § 111.100(a)(1)) and Frequency and Per Total Daily Intake Basis (§ 111.100(b))

As stated above, the agency tentatively concluded in the ephedrine alkaloids proposal that a dietary supplement is adulterated if it contains 8 mg) or more of ephedrine alkaloids per serving (§ 111.100(a)(1)), or if the labeling suggests or recommends conditions of use that would result in an intake of 8 mg or more within a 6-hour period or a total daily intake of 24 mg or more of ephedrine alkaloids (§ 111.100(b)). Having reconsidered the basis for these limits, including comments on that basis by GAO and others to the proposal, FDA believes that it should consider additional information not available to the agency when it issued the ephedrine alkaloids proposal to determine whether a dietary ingredient limit, or some alternative approach, would be appropriate to regulate these dietary ingredients. Therefore, FDA is withdrawing these provisions of the ephedrine alkaloids proposal.

FDA continues to be concerned about the potential risk for individuals who are particularly sensitive to the effects of ephedrine alkaloids, or whose sensitivity or likelihood for adverse effects may be increased through chronic use of these products or other means (e.g., physical exercise). FDA expressed this concern in the proposal, and noted that many members of the FAC agreed.

B. Proposed Compliance Procedures (§ 111.100(a)(2))

In the ephedrine alkaloids proposal, FDA stated that it would use a high performance liquid chromatography method as specified in Laboratory Information Bulletin No. 4053 to determine the level of ephedrine alkaloids in a dietary supplement. Without a requirement that would establish an unacceptable dietary ingredient level for dietary supplements containing ephedrine alkaloids, this provision, alone, is no longer necessary. Accordingly, the agency has determined that this provision should also be withdrawn.

C. Proposed Limitations on Duration of Use (§ 111.100(c))

FDA proposed in § 111.100(c) to require that the label of dietary supplements that contain ephedrine alkaloids state ''Do not use this product for more than 7 days.'' FDA intended to require this provision in conjunction with the 8 mg per serving dietary ingredient limit proposed in § 111.100(a)(1). FDA noted in the ephedrine alkaloids proposal that concern about serious adverse events with the long-term use of ephedrine alkaloids led several members of the Working Group (see Ref. 27 of the ephedrine alkaloids proposal) and of the FAC (see Ref. 25 of the ephedrine alkaloids proposal (Docket No. 95N–0304)) to recommend that, in conjunction with a per serving dietary ingredient limit, FDA require a statement on the label of ephedrine alkaloid-containing dietary supplements to warn consumers not to use the product for a period longer than 7 days. FDA also cited evidence from the scientific literature about the adverse effects of long-term use of ephedrine alkaloids (62 FR 30678 at 30695).

FDA remains concerned with the long-term use of such products and the potential adverse effects such use has in combination with the use of other ingredients that have a stimulant effect. However, having reconsidered the basis for the proposed duration of use limit, including the comments on that basis by GAO and others to the proposal, FDA believes that it should consider additional information not available to the agency when it issued the ephedrine alkaloids proposal to determine whether any duration of use limit, or some alternative approach, is appropriate to regulate these products. In addition, the agency is also withdrawing the proposed 8-mg dietary ingredient limit. Therefore, the agency has determined that the proposed labeling requirement concerning duration of use should also be withdrawn.

D. Prohibition on Claims (§ 111.100(e) and (f))

FDA stated in the proposal that restrictions on claims are necessary to maintain the integrity of the limit on the level of ephedrine alkaloids in dietary supplements that it proposed and of the other proposed restrictions on the conditions of use of these dietary supplements. For example, because safe and significant weight loss and body building cannot be achieved in a 7-day period, FDA tentatively concluded that claims that promote these uses promote long-term use of ephedrine alkaloid-containing dietary supplements, which have been associated with serious adverse events. For this reason, FDA tentatively concluded that any claims that promote long-term use of ephedrine

alkaloid dietary supplements, such as those for weight loss and body building, promote conditions of use that present a significant and unreasonable risk of illness and injury. Consequently, FDA proposed in § 111.100(e) to require that no dietary supplement that contains ephedrine alkaloids may purport to be, or be represented as, either expressly or implicitly, for use for long-term effects, such as weight loss or body building.

Similarly, many claims found on the labels of, or in the labeling for, ephedrine alkaloid-containing dietary supplements, including increased energy, increased mental concentration, and enhanced well-being, encourage the consumer to take more of the product than is indicated on the label to achieve more of the purported effect. Consequently, FDA tentatively concluded that claims that promote excessive consumption are inconsistent with the dietary ingredient limit for these products. Accordingly, FDA proposed in § 111.100(f)(1) that the label or labeling for dietary supplements that contain ephedrine alkaloids that purport to be or are represented, either expressly or implicitly, to be used for short-term effects, such as increased energy, increased mental concentration, or enhanced well-being, must state ''Taking more than the recommended serving may cause heart attack, stroke, seizure or death.'' FDA proposed in § 111.100(f)(2) certain requirements on the size, type, and placement of this statement on the label. Because FDA is withdrawing the proposed dietary ingredient limit and duration of use limit, FDA has determined that the proposed provisions in § 11.100(e) and (f) should also be withdrawn. FDA believes that it should consider additional information not available to the agency when it issued the ephedrine alkaloids proposal before finally determining whether such provisions with respect to claims, or some alternative approach, is appropriate to regulate these products. Nonetheless, FDA remains concerned that adverse effects are associated with long-term consumption of such products and with consumption of such products in excess of labeled serving sizes.

III. Current Provisions of the Ephedrine Alkaloids Proposal

Despite this action to withdraw the proposed dietary ingredient level and duration of use limit, and related provisions of the ephedrine alkaloids proposal, there remain provisions that the agency is not withdrawing in this notice. These provisions concern FDA's proposed prohibition on the use of ingredients with stimulant effects with dietary supplements containing ephedrine alkaloids (§ 111.100(d)) and the proposed warning statement (§ 111.100(g)).

FDA proposed in § 111.100(d) to require that no ingredient, or ingredient that contains a substance, that has a known stimulant effect (e.g, sources of caffeine, yohimbine) may be included in a dietary supplement that contains ephedrine alkaloids. FDA proposed this provision in response to the many adverse events that had been reported to the agency. These adverse events involved the use of dietary supplements that contain ephedrine alkaloids in combination with other ingredients, some with known physiological or pharmacological effects, including kola nut, yohimbe, willow bark, senna, and Uva ursi (see Ref. 164 of the proposed rule (Docket No. 95N–0304)). These adverse events suggested that the other ingredients may act in combination with the ephedrine alkaloids to produce more frequent, more severe, or potentially different patterns of adverse effects than those noted with the use of ephedrine alkaloids alone.

In the ephedrine alkaloids proposal, FDA also tentatively concluded that a warning statement on the labels of dietary supplements containing ephedrine alkaloids is necessary, in conjunction with dietary ingredient limitations and other requirements proposed in that document, to protect the public health. The warning statements proposed in § 111.100(g) contained several elements, including cautions that consumers not use the product if they have certain diseases or health conditions or are using certain drugs, and to stop the use of the product if they develop certain signs or symptoms. As noted in the preamble to the ephedrine alkaloids proposal, persons having certain diseases or taking specific medications known to interact with ephedrine alkaloids are at risk of suffering adverse events with the use of dietary supplements containing ephedrine alkaloids. Generally, use of ephedrine alkaloids at any intake level by these persons is contraindicated. For these persons a warning label statement can be a useful means of alerting them to potential consequences that can result from the use of the product. In addition, many consumers who are unaware that they are sensitive to the effect of ephedrine alkaloids may not recognize the significance of early warning signs and symptoms as potential indicators of more serious side effects (e.g., dizziness or severe headache may be early symptoms of hypertension or stroke). Under these circumstances, a warning statement could provide information on what actions the consumer should take if certain symptoms occur (62 FR 30678 at 30700).

The agency has not at this time concluded that it will finalize the provisions in § 111.100(d) and (g). Rather, the agency intends to consider whether to finalize these provisions, or take additional or alternative regulatory action, after it receives public input on the significance of new information collected by the agency about the safety of dietary supplements containing ephedrine alkaloids.

IV. Continued Monitoring and Followup

Although FDA is withdrawing certain provisions of the ephedrine alkaloids proposal, FDA continues to have a public health concern with respect to the use of dietary supplements containing ephedrine alkaloids. The agency will continue to monitor and provide appropriate followup on adverse events associated with the use of these products. In a notice of availability published elsewhere in this issue of the **Federal Register**, FDA is seeking public input about the significance of new information collected by the agency about the safety of dietary supplements containing ephedrine alkaloids. The agency is also requesting the submission of any other information that the submitters believe is relevant to such a safety assessment. Should additional information suggest that additional action is necessary, FDA will consider what action is appropriate, and take appropriate steps to protect consumers and the public health.

V. Enforcement

Withdrawal of certain provisions of the ephedrine alkaloids proposal does not limit the agency's discretion to initiate enforcement actions with respect to ephedrine alkaloids containing dietary supplements. For example, circumstances may warrant enforcement action against a dietary supplement containing ephedrine alkaloids if an evaluation of the relevant facts show a health hazard or that the product is otherwise adulterated or misbranded.

FDA maintains its street drug alternative policy, as articulated in the preamble to the ephedrine alkaloids proposal, which states that because alternatives to illicit street drugs are not intended to supplement the diet, products that purport to be or that are represented, either expressly or implicitly, for use as alternatives to street drugs are not dietary supplements within the meaning of section 201(ff) of

the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(ff)). (See 62 FR 30678 at 30699 and 30700). FDA is publishing elsewhere in this issue of the **Federal Register** a notice announcing the availability of a guidance entitled ''Street Drug Alternatives.'' The guidance is intended to inform industry and the public that FDA considers any product that is promoted as a street drug alternative to be an unapproved new drug and a misbranded drug in violation of the act. To date, the agency has taken action against several products marketed as alternatives to illicit street drugs, and it may do so in the future, as well.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, the proposed rule published on June 4, 1997 (62 FR 30678), is withdrawn in part for § 111.100(a), (b), (c), (e), and (f).

Dated: March 28, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–8109 Filed 3–31–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 275

[Notice No. 894]

RIN 1512–AB71

Implementation of Public Law 105–33, Section 9302, Requiring the Qualification of Tobacco Products Importers.

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document reopens the comment period for Notice No. 888, a notice of proposed rulemaking cross-referenced to temporary regulations, published in the **Federal Register** on December 22, 1999. ATF has received a request to extend the comment period in order to provide sufficient time for all interested parties to respond to the issues raised in the notice.

DATES: Written comments must be received on or before May 3, 2000.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221, Attention: Notice Number 888.

FOR FURTHER INFORMATION CONTACT: Clifford A. Mullen by writing to Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226, by phone at 202–927–8210, or by e-mail at *alcohol/tobacco@atfhq.atf.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1999, ATF published a notice of proposed rulemaking (NPRM) cross-referenced to temporary regulations in the **Federal Register** soliciting comments from the public and industry on proposed regulations implementing the provisions of the Balanced Budget Act of 1997, Public Law 105–33. These provisions amended the Internal Revenue Code of 1986 to require that, beginning January 1, 2000, importers of tobacco products qualify for a permit to conduct that activity (Notice No. 888; 64 FR 71955).

The comment period for Notice No. 888 was scheduled to close on February 22, 2000. Prior to the close of the comment period, ATF received a request from a manufacturer of tobacco products, RJ Reynolds Tobacco Company to extend the comment period. RJ Reynolds stated that it needed additional time to coordinate the comments of several departments within the company which have an interest in the importation of tobacco products.

In consideration of the above, ATF finds that a reopening of the comment period is warranted. Thus, the comment period is being reopened for an additional 30 days until May 3, 2000. The Bureau believes that a comment period totaling 90 days is a sufficient amount of time for all interested parties to respond.

Disclosure

Copies of this notice, Notice No. 888, and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachussetts Avenue, NW, Washington DC.

Drafting Information. The author of this document is Clifford A. Mullen, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 275

Administrative practices and procedures, Authority delegations, Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspections, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Reporting and record keeping requirements, Seizures and forfeitures, Surety bonds, U.S. Possessions, Warehouses.

Authority and Issuance

This notice is issued under the authority in 26 U.S.C. 7805.

Signed: March 22, 2000.

Bradley A. Buckles,

Director.

[FR Doc. 00–8113 Filed 3–31–00; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AJ23

Information Collection Needed in VA's Flight-Training Programs

AGENCIES: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: We propose to amend our educational assistance and educational benefit regulations concerning flight-training courses for which the Department of Veterans Affairs (VA) pays for eligible students. In this regard, we propose to require that flight schools offering such flight-training courses maintain records regarding students to whom VA makes payments. The proposed rule is intended to provide information to VA for determining compliance with requirements for VA payments to students for pursuing flight-training courses. Also, when VA, rather than a separate State entity, is the approving agency, the proposed rule is intended to provide information to VA for determining whether to approve a flight-training course.

DATES: Comments must be received on or before June 2, 2000.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to ''OGCRegulations@mail.va.gov''. Comments should indicate that they are submitted in response to ''RIN 2900–AJ23.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education

Advisor, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 202–273–7187.

SUPPLEMENTARY INFORMATION: VA payments are provided to eligible individuals for pursuit of approved flight-training courses under the Montgomery GI Bill—Active Duty, Montgomery GI Bill—Selective Reserve, and Post-Vietnam Era Veterans' Educational Assistance programs.

Educational institutions are required to make available for Government inspection records and accounts, pertaining to veterans who received VA educational assistance, which VA determines necessary to ascertain institutional compliance with requirements for assistance (38 U.S.C. 3676 and 3690(c)). We propose to add 38 CFR 21.4263(h)(3), which would require that flight schools offering approved flight-training courses maintain records as set out in the text portion of this document: i.e., various certificates, flight records, logs, invoices, account ledgers, instructor records, tuition records, and course and training records. It appears that these records regarding students receiving VA flight-training benefits are necessary to assist VA in determining that courses and students meet all requirements for payment of such benefits.

In addition, proposed § 21.4263(h)(3) requires flight schools to maintain those records under 38 U.S.C. 3676(b) and 3676(c)(4), (c)(5), (c)(6), (c)(7), and (c)(13) when VA, rather than a separate State approving agency, is the approving authority for flight-training courses. Maintaining the records specified in the proposed rule appears necessary to assist VA, when it is the approving authority, in determining whether it should approve a course.

This document also makes technical changes for purposes of clarification.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), a collection of information is set forth in the proposed 38 CFR 21.4263(h)(3). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to the Office of Management and Budget (OMB) for its review of the proposed collection of information.

OMB assigns control numbers to collections of information it approves. VA 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.

Comments on the proposed collection of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AJ23.''

Title: Recordkeeping at Flight Schools.

Summary of collection of information: Proposed § 21.4263(h)(3) specifies records that flight schools are required to maintain to show that the courses and students are in compliance with requirements for payment of VA benefits and to maintain for VA approval purposes under 38 U.S.C. 3676(b) and 3676(c)(4), (c)(5), (c)(6), (c)(7), and (c)(13) when VA, rather than a separate State approving agency, is the approving authority for the particular flight-training courses.

Description of need for information and proposed use of information: The records appear necessary to assist VA in determining that courses and students meet all requirements for payment to students of VA flight-training benefits and, in cases when VA is the approving authority for flight-training courses, to assist VA in determining whether to approve a course.

Description of likely respondents: Flight schools.

Estimated number of respondents: 310 per year.

Estimated frequency of responses: On occasion.

Estimated burden per collection: 1/3 hour.

Estimated total annual reporting and recordkeeping burden: 667 hours.

The Department considers comments by the public on proposed collections of information in—

Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; Enhancing the quality, usefulness, and clarity of the information to be collected; and Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB 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 rule.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Adoption of this proposed rule would have a minuscule monetary effect, if any, on affected entities. Pursuant to 5 U.S.C. 605(b), this proposed rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance numbers for programs affected by this proposed rule are 64.120 and 64.124. This proposed rule would also affect the Montgomery GI Bill—Selected Reserve program which has no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 23, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 21 (subparts D and L) as follows:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

1. The authority citation for part 21, subpart D continues to read as follows:

Authority: 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

21.4152 [Amended]

2. In § 21.4152, the introductory text of paragraph (b) is amended by removing ''on VA.'' and adding, in its place, ''on VA:''; and paragraph (b)(4) is amended by removing ''§ 21.4209.'' and adding, in its place, §§ 21.4209 and 21.4263.''

3. In § 21.4263, paragraph (h)(3) is added to read as follows: § 21.4263 Approval of flight training courses.

* * * * *

(h) *Nonaccredited courses.* * * *

(3) A flight school must keep at a minimum the following records for each eligible veteran, servicemember, or reservist pursuing flight training:

(i) A copy of his or her private pilot certificate;

(ii) Evidence of completion of any prior training which may be a prerequisite for the course;

(iii) A copy of the medical certificate required by paragraph (a)(2) of this section for the courses being pursued and copies of all medical certificates (expired or otherwise) needed to support all periods of prior instruction received at the current school;

(iv) A daily flight log or copy thereof;

(v) A permanent ground school record;

(vi) A progress log;

(vii) An invoice of flight charges for individual flights or flight lessons for training conducted on a flight simulator or advanced flight training device;

(viii) Daily flight sheets identifying records upon which the 85–15 percent ratio may be computed;

(ix) A continuous meter record for each aircraft;

(x) An invoice or flight tickets signed by the student and instructor showing hour meter reading, type of aircraft, and aircraft identification number;

(xi) An accounts receivable ledger;

(xii) Individual instructor records;

(xiii) Engine log books;

(xiv) A record for each student above the private pilot level stating the name of the course in which the student is currently enrolled and indicating whether the student is enrolled under 14 CFR part 61, part 63, part 141, or part 142;

(xv) Records of tuition and accounts which are evidence of tuition charged and received from all students; and

(xvi) If training is provided under 14 CFR part 141, the records required by that part, or if training is provided under 14 CFR part 142, the records required by that part.

(Authority: 38 U.S.C. 3471, 3671, 3672, 3676, 3690(c))

* * * * *

Subpart L—Educational Assistance for Members of the Selected Reserve

4. The authority citation for part 21, subpart L continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, unless otherwise noted.

21.7807 [Amended]

5. Section 21.7807 is amended by removing § 21.4209 and adding, in its place, §§ 21.4209 and 21.4263.

[FR Doc. 00–8072 Filed 3–31–00; 8:45 am]

BILLING CODE 8320–01–P

Notices

Federal Register

Vol. 65, No. 64

Monday, April 3, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Research, Education, and Economics Notice of the Advisory Committee on Small Farms Meeting

AGENCY: Research, Education and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the United States Department of Agriculture announces a meeting of the USDA Advisory Committee on Small Farms.

FOR FURTHER INFORMATION CONTACT: Enrique Nelson Escobar, Executive Director of the USDA Advisory Committee on Small Farms, Research, Education and Economics, U.S. Department of Agriculture, Mail Stop 2027, Room 1412, South Agriculture Building, 1400 Independence Avenue SW., Washington, D.C. 20250–3810. Telephone: 202–720–9354, Fax: 202–720–0443, or e-mail: adrain@reeusda.gov.

SUPPLEMENTARY INFORMATION: The USDA Advisory Committee on Small Farms, consisting of 19 members, representing small farms, ranches, and woodlot owners and the diverse groups USDA programs serve, has scheduled a meeting for April 18–20, 2000. The Committee meeting will be held 8:00 a.m.–5:00 p.m. on Tuesday, April 18, on Wednesday, April 20, 8:00 a.m.–5 p.m., and on Thursday, April 20, 8 a.m.–12 p.m. During this time the Advisory Committee will: (1) Hear reports from working sub-committees, (2) hear comments from the general public, (3) finalize plans for achieving the committee objectives, and (4) determine how and when the Committee will make recommendations to the Secretary.

Dates and Locations: April 18—8:00 a.m. to 5:00 p.m., Advisory Committee General Meeting, Jamie L. Whitten Federal Building, Rooms 104–A and 107–A, 1400 Jefferson Drive, S.W., Washington, D.C. April 19—8:00 a.m. to 5:00 p.m., Advisory Committee General Meeting, Jamie L.Whitten Federal Building, Rooms 104–A and 107–A, 1400 Jefferson Drive, S.W., Washington, D.C. On April 19, at 10:00 a.m. to 12:00 p.m., the general public will have an opportunity to provide oral and written comments to the Committee in Room 104–A, 1400 Jefferson Drive, S.W., Washington, D.C. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. April20—8:00 a.m. to 12:00 p.m., Advisory Committee General Meeting, Jamie L. Whitten Federal Building, Room 104–A, 1400 Jefferson Drive, S.W. Washington, D.C.

Type of Meeting: Open to the public.

Comments: The public may file written comments to the USDA Advisory Committee contact person before or within a reasonable time after the meeting. All statements will become a part of the official records of the USDA Advisory Committee on Small Farms and will be kept on file for public review in the office of the Acting Director of Small Farms, Room 1410 South Building, U.S. Department of Agriculture, Washington, DC . 20250.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 00–8066 Filed 3–31–00; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Davis Land Exchange; White River National Forest; Colorado

AGENCY: Forest Service, USDA.

ACTION: Notice; availability of the Davis Land Exchange Environmental Assessment.

SUMMARY: An Environmental Assessment (EA) for the Davis Land Exchange on the Aspen Ranger District of the White River National Forest is available for public review and comment.

DATES: Comments must be postmarked by May 3, 2000.

ADDRESSES: Send written comments to Davis Land Exchange Project Manager, White River National Forest, Aspen Ranger District, 806 West Hallam Street, Aspen, CO 81611. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying at the Aspen Ranger District office.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the Environmental Assessment and questions about this project should be addressed to Allan Grimshaw, Aspen Ranger District, 806 West Hallam Street, Aspen CO, 81611, 970–925–3445.

SUPPLEMENTARY INFORMATION: The United States has entered into a settlement agreement which proposes the use of a land exchange to settle a title claim against the United States. The exchange would result in conveyance of 7.32 acres of Federal land for approximately 61 acres of non-Federal land. This environmental assessment has been prepared to evaluate the effects of such a land exchange. It also evaluates the effects of one alternative: Requesting the court release the United States from the settlement agreement and allow the litigation to continue. Comments will be considered in development of a decision.

Dated: March 17, 2000.

James R. Furnish,

Deputy Chief for National Forest System.

[FR Doc. 00–8053 Filed 3–31–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Northern Sierra Forest Plan Amendment EIS: Humboldt–Toiyabe National Forest, Stanislaus National Forest, Lake Tahoe Basin Management Unit: Carson City, Douglas, and Washoe Counties, Nevada and Alpine, Eldorado, Nevada, Sierra, Lassen, and Toulumne Counties, California

AGENCY: Forest Service, USDA.

ACTION: Supplement of a notice of intent to revise expected public comment availability, clarify the forest plans amended, and identify changes in the scope of the amendment.

SUMMARY: This **Federal Register** notice revises the Notice of Intent published in the November 10, 1998 **Federal Register**

Vol. 63, No. 217, Pages 63023–63024. The agency expects to file the draft EIS with the Environmental Protection Agency and make it available for public comment in May, 2000.

In addition to comprehensive amendment of the Toiyabe Land and Resource Management plan for the Carson Ranger District, the EIS will address amendment of the Stanislaus Land and Resource Management Plan for management of that portion of the Carson Iceberg Wilderness Area in the Stanislaus National Forest and the Lake Tahoe Basin Land and Resource Management Plan for management of that portion of the Mount Rose Wilderness Area in the Lake Tahoe Basin Management Unit.

Based on public input and further analysis, the scope of the amendment for the Toiyabe Plan has been modified from that published in the original notice. Topics to be included are now: (1) Improving public access, (2) enhancing recreation opportunities and reducing user conflicts, (3) protecting scenery along scenic corridors and as a backdrop the areas communities, (4) preserving wilderness character, (5) protecting watersheds, (6) enhancing ecosystem integrity and biodiversity, (7) improving the landownership pattern, (8) protecting and interpreting heritage resources, (9) managing American Indian religious and cultural uses in a government–to–government relationship with tribes, (10) providing for harvest of forest products to achieve ecosystem integrity goals, (11) managing livestock grazing to ensure long-term ecological sustainability, (12) managing mining to protect scenic and other resources, and (13) providing for development of special use facilities compatible with scenic integrity and other resource objectives.

FOR FURTHER INFORMATION CONTACT: David Loomis, Sierra Ecosystem Planner, 1536 South Carson Street, Carson City, NV 89701, phone 775 884–8132.

Dated: March 21, 2000.

Karen Shimamoto,

Deputy Forest Supervisor, Humboldt–Toiyabe National Forest.

[FR Doc. 00–8132 Filed 3–31–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Tuxekan Island Timber Sale Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) to provide timber for the Tongass National Forest Timber Sale Program. The Record of Decision will disclose how the Forest Service has selected harvest units, designed roads, and planned for future stand management activities. The proposed action is to harvest approximately 20 MMBF of timber on Tuxekan Island. A range of alternatives responsive to significant issues will be developed and include a no-action alternative. The proposed project is located on Tuxekan Island west of Prince of Wales Island in townships 69 and 70 east (T69E, T70E) and ranges 78 and 79 south (R78S, R79S), Copper River Meridian, on the Thorne Bay Ranger District of the Tongass National Forest.

DATES: Comments concerning the scope of this project should be received by May 31, 2000.

ADDRESSES: Please send written comments to District Ranger; Thorne Bay Ranger District; Tongass National Forest; Attn: Tuxekan Island Timber Sale EIS; P.O. Box 19001; Thorne Bay, AK 99919.

FOR FURTHER INFORMATION CONTACT: Questions about the proposal and EIS should be directed to: Stan McCoy, Thorne Bay Ranger District, Tongass National Forest, P.O. Box 19001, Thorne Bay, AK 99919, telephone (907) 828–3243 or E-mail: samccoy@fs.fed.us.

SUPPLEMENTARY INFORMATION:

(1) *Public Participation:* Public participation will be an integral component of the study process and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Native, Federal, State, local agencies, individuals and organizations that may be interested in, or affected by, the proposed activities. The scoping process will include: (1) Identification of potential issues; (2) identification of issues to be analyzed in depth; and (3) elimination of insignificant issues or those which have been covered by a previous environmental review. Public scoping meetings are scheduled in Alaska at Edna Bay, Klawock, Naukati, and Thorne Bay. Meeting dates are tentatively scheduled for April, 2000 and will be published in the Ketchikan Daily News and the Island News newspapers distributed in southeast Alaska. Meeting dates will also be available from the Thorne Bay Ranger District by calling (907) 828–3304. Written scoping comments are being solicited through a scoping package that will be sent to the project mailing list. For the Forest Service to best use the scoping input, comments should be received by May 31, 2000.

Based on results of scoping and the resource capabilities within the project area, alternatives including a ''no action'' alternative will be developed for the Draft Environmental Impact Statement (Draft EIS). The Draft EIS filing date with the Environmental Protection Agency (EPA) is scheduled for January 2001. Public comment on the Draft EIS will be solicited for a minimum of 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.** Subsistence hearings, as provided for in Title VIII, Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), are planned during this 45-day comment period if needed. The Final EIS is anticipated by October 2001.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments during scoping and comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In addition, Federal court decisions have established that reviewers of Draft EIS statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and concerns. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553, (1978). Environmental objections that could have been raised at the draft environmental impact statement stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel,* 803 F.2nd 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that subsistence comments and objections are made available to the Forest Service at a time when it can

meaningfully consider them and respond to them in the Final EIS.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Requesters should be aware that, under FOIA, confidentiality might be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agencies decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 7 days. Permits required for implementation including the following:

1. U.S. Army Corps of Engineers

—Approvals of discharge of dredged or fill material into the waters of the United States under Section 404 of the Clean Water Act,

—Approval of the construction of structures or work in navigable waters of the United United States under Section 10 of the Rivers and Harbors Act of 1899;

2. Environmental Protection Agency

—National Pollutant Discharge Elimination System (402) Permit;

—Review Spill Prevention Control and Countermeasure Plan;

3. State of Alaska, Department of Natural Resources

—Tideland Permit and Lease or Easement;

4. State of Alaska, Department of Environmental Conservation

—Solid Waste Disposal Permit;

—Certification of Compliance with Alaska Water Quality Standards (401 Certification)

Responsible Official: Thomas Puchlerz, Forest Supervisor, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901, is the responsible official. The responsible official will consider the comments, response, disclosure of environmental consequences, and applicable laws, regulations, and policies in making the decision and stating the rationale in the Record of Decision.

Dated: March 20, 2000.

Thomas Puchlerz,

Forest Supervisor.

[FR Doc. 00–8054 Filed 3–31–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Kosciusko Island Timber Sale Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement

SUMMARY: The Department of Agriculture, forest Service, will prepare an Environmental Impact Statement (EIS) to provide timber for the Tongass National Forest Timber Sale Program. The Record of Decision will disclose how the Forest Service has selected harvest units, designed roads, and planned for future stand management activities. The proposed action is to harvest about 17 MMBF of old growth and second growth timber on Kosciusko Island and to improve wildlife habitat conditions with commercial thinning of second growth stands. A range of alternatives responsive to significant issues will be developed and include a no-action alternative. The project is located on the Tongass National Forest on the western peninsula of Kosciusko Island south of Shipley Bay within townships 67 and 68 south (T67S, T68S,) and ranges 75, 76, and 77 east (R75S, R76E, and R77E), Copper River Meridian, on the Thorne Bay Ranger District of the Tongass National Forest.

DATES: Comments concerning the scope of this project should be received by May 31, 2000.

ADDRESSES: Please send written comments to District Ranger; Thorne Bay Ranger District; Tongass National Forest; Attn: Kosciusko Island Timber Sale EIS; P.O. Box 19001; Thorne Bay, AK 99919.

FOR FURTHER INFORMATION CONTACT: Questions about the proposal and EIS should be directed to: Stan McCoy, Thorne Bay Ranger District, Tongass National Forest, P.O. Box 19001, Thorne Bay, AK 99919, telephone (907) 828–3243, or E-mail address: samccoy@fs.fed.us

SUPPLEMENTARY INFORMATION: (1) *Public Participation:* Public participation will be an integral component of the study process and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Native, Federal, State, local agencies, individuals and organizations that may be interested in, or affected by, the proposed activities. The scoping process will include: (1) identification of potential issues; (2) identification of issues to be analyzed in depth; and (3) elimination of insignificant issues or those which have been covered by a previous environmental review. Public scoping meetings are scheduled in Alaska at Edna Bay, Klawock, Naukati, and Thorne Bay. Meeting dates are tentatively scheduled for April, 2000 and will be published in the Ketchikan Daily news and the Island News newspapers distributed in southeast Alaska. Confirmed meeting dates will also be available from the District Ranger on the Thorne Bay Ranger District by calling (907) 828–3304. Written scoping comments are being solicited through a scoping package that will be sent to the project mailing list. For the Forest Service to best use the scoping input, comments should be received by May 31, 2000.

Based on results of scoping and the resource capabilities within the project area, alternatives including a ''no action'' alternative will be developed for the Draft Environmental Impact Statement (Draft EIS). The Draft EIS filing date with the Environmental Protection Agency (EPA) is scheduled for January 2001. Public comment on the Draft EIS will be solicited for a minimum of 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. Subsistence hearings, as provided for in Title VIII, Section 810 of the Alaska national Interest Lands Conservation Act (ANILCA), are planned during this 45-day comment period, if needed. The Final EIS is anticipated by October 2001.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments during scoping and comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In addition, Federal court decisions have established that reviewers of Draft EIS statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and concerns. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553, (1978). Environmental objections that could have been raised at the draft environmental impact statement stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel.* 803 F.2nd 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that subsistence comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final EIS.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Requesters should be aware that, under FOIA, confidentiality might be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agencies decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 7 days.

Permits required for implementation include the following:

1. U.S. Army Corps of Engineers
   —Approvals of discharge of dredged or fill material into the waters of the United States under Section 404 of the Clean Water Act,
   —Approval of the construction of structures or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899;
2. Environmental Protection Agency
   —National Pollutant Discharge Elimination System (402) Permit;
   —Review Spill Prevention Control and Countermeasure Plan;
3. State of Alaska, Department of Natural Resources
   —Tideland Permit and Lease or Easement;
4. State of Alaska, Department of Environmental Conservation
   —Solid Waste Disposal Permit;
   —Certification of Compliance with Alaska Water Quality Standards (401 Certification)

Responsible Official: Thomas Puchlerz, Forest Supervisor, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901, is the responsible official. The responsible official will consider the comments, response, disclosure of environmental consequences, and applicable laws, regulations, and policies in making the decision and stating the rationale in the Record of Decision.

Dated: March 20, 2000.

Thomas Puchlerz,

Forest Supervisor.

[FR Doc. 00–8055 Filed 3–31–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Klamath Provincial Advisory Committee will meet on April 13 and 14, 2000, at the Miner's Inn Convention Center, 122 E. Miner, Yreka, California. The meeting on Thursday, April 13, will start at 1 p.m. and adjourn at 5 p.m. The meeting will reconvene on Friday, April 14 at 8 a.m. and will adjourn at 12 p.m. Agenda items for the meeting include: (1) Discussion of the Megram Fire rehabilitation; (2) A presentation of the development of Fire Management Strategies; and (3) Public Member Co-Chair for PAC. All Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Connie Hendryx, USDA, Klamath National Forest, 11263 N. Hwy 3, Fort Jones, California 96032; telephone 530–468–1281 (voice), TDD 530–468–2783.

Dated: March 24, 2000.

Margaret J. Boland,

Forest Supervisor.

[FR Doc. 00–8124 Filed 3–31–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on April 27, 2000, at the Siuslaw National Forest, 4077 S.W. Research Way, Corvallis, Oregon. The meeting will begin at 9 a.m. and continue until 3:30 p.m. Agenda items to be covered include: (1) Watershed planning for Tillamook and Five Rivers EIS; (2) Joint meeting with the Willamette PAC in July; (3) Survey results for topics for future meetings; (4) Rechartering; and (5) Public comment period.

Interested citizens are encouraged to attend. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, (541–750–7075) or write to the Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, Oregon 97339.

Dated: March 23, 2000.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 00–8056 Filed 3–31–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on April 12, 2000 in Medford, Oregon at the Medford Bureau of Land Management Office at 3040 Biddle Road. The meeting will begin at 9 a.m. and continue until 5 p.m. Agenda items to be covered include: (1) Cascade/Siskiyou Ecological Emphasis Area; (2) Public Comment; (3) Province Advisory Committee Recharter; and (4) Current issues as perceived by Advisory Committee members.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Roger Evenson, Province Advisory Committee Coordinator, USDA, Forest Service, Umpqua National Forest, 2900

NW Stewart Parkway, Roseburg, Oregon 97470, phone (541) 957–3344.

Dated: March 28, 2000.

Michael D. Hupp,

Acting Designated Federal Official.

[FR Doc. 00–8088 Filed 3–31–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Five-Year (''Sunset'') Reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year (''sunset'') reviews of the antidumping duty orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notices of Institution of Five-Year Reviews covering these same orders.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–3207, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

Initiation of Reviews

In accordance with 19 CFR 351.218 (see Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998)), we are initiating sunset reviews of the following antidumping duty orders:

DOC case No.	ITC case No.	Country	Product
A–570–832	A–696	China	Pure magnesium.
A–821–805	A–697	Russia	Pure magnesium.

Statute and Regulations

Pursuant to sections 751(c) and 752 of the Act, an antidumping (''AD'') or countervailing duty (''CVD'') order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the Sunset Regulations and Sunset Policy Bulletin, the Department's schedule of sunset reviews, case history information (*e.g.,* previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset internet website at the following address:

''http://www.ita.doc.gov/import__admin/records/sunset/''.

All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1999). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in this review. Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306 (see Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order, 63 FR 24391 (May 4, 1998)).

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1999)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the Sunset Regulations at 19 CFR 351.218(d)(1)(ii). We note that the Department considers each of the orders listed above as separate and distinct orders and, therefore, requires order-specific submissions. In accordance with the Sunset Regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Sunset Regulations provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth in the Sunset Regulations at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Sunset Regulations for information regarding the Department's conduct of sunset reviews.[1] Please consult the

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (Sunset Regulations, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1999), the Department will consider individual

Department's regulations at 19 CFR part 351 (1999) for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: March 28, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–8160 Filed 3–31–00; 8:45 am]

BILLING CODE 3150–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Stainless Steel Flanges From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of new shipper review.

SUMMARY: The Department of Commerce has received a request for a new shipper review of the antidumping duty order on certain stainless steel flanges (stainless flanges) from India issued on February 9, 1994 (59 FR 5994). In accordance with our regulations, we are initiating a new shipper review covering Snowdrop Pvt. Ltd. (Snowdrop).

EFFECTIVE DATE: April 3, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or Michael Heaney, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–5222 or (202) 482–4475, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 351 (1999).

Background

On February 29, 2000, the Department received a timely request, in accordance with section 751(a)(2)(B) of the Tariff Act and 19 CFR 351.214(b) of the Department's regulations, for a new shipper review of the antidumping duty order on stainless flanges from India, which has a February anniversary date. (*See Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value,* 59 FR 5994 (February 9, 1994).

Initiation of Review

Pursuant to the Department's regulations at 19 CFR 351.214(b), Snowdrop certified in its February 29, 2000 submission that it did not export subject merchandise to the United States during the period of the investigation (POI), (July 1, 1992 through December 31, 1992), and that it was not affiliated with any exporter or producer of the subject merchandise to the United States during the POI . Snowdrop submitted documentation establishing the date on which it first shipped the subject merchandise for export to the United States, the volume shipped and the date of the first sale to an unaffiliated customer in the United States.

In accordance with section 751(a)(2)(B) of the Tariff Act and section 351.214(d) of the Department's regulations, we are initiating a new shipper review of the antidumping duty order on stainless flanges from India. The Department's regulations state that a new shipper review normally will cover entries, exports or sales during the twelve-month period immediately preceding the anniversary month if the review is initiated in the month immediately following the anniversary month, as here. 19 CFR 351.214(g)(1)(i)(A). Thus, the review period for this case normally would be February 1, 1999–January 31, 2000. However, we are extending the review period by two months to ensure inclusion of the sale, export and shipment which Snowdrop has requested the Department to review. Thus, the review covers the period February 1, 1999–February 29, 2000. We intend to issue the preliminary results of the review no later than 180 days from the date of publication of this notice.

We will instruct the Customs Service to suspend liquidation of any unliquidated entries of the subject merchandise from Snowdrop, and allow, at the option of the importer, the posting, until completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by Snowdrop, in accordance with 19 CFR 351.214(e).

Interested parties may submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305(b).

This initiation and this notice are in accordance with section 751(a) of the Tariff Act (19 U.S.C. 1675(a)) and 19 CFR 351.214.

Dated: March 28, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement, Group III.

[FR Doc. 00–8159 Filed 3–31–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of quarterly update to annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its quarterly update to the annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period October 1, 1999 through December 31, 1999. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: April 3, 2000.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Tipten Troidl, Officer of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(g)(b)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the

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requests for extension of that five-day deadline based upon a showing of good cause.

Department's quarterly update of subsidies on cheeses that were imported during the period October 1, 1999 through December 31, 1999.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(g)(b)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: March 27, 2000.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

APPENDIX.—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy ($/lb)	Net [2] subsidy ($/lb)
Austria	European Union Restitution Payments	$0.21	$0.21
Belgium	EU Restitution Payments	0.06	0.06
Canada	Export Assistance on Certain Types of Cheese	0.24	0.24
Denmark	EU Restitution Payments	0.16	0.16
Finland	EU Restitution Payments	0.24	0.24
France	EU Restitution Payments	0.14	0.14
Germany	EU Restitution Payments	0.15	0.15
Greece	EU Restitution Payments	0.00	0.00
Ireland	EU Restitution Payments	0.16	0.16
Italy	EU Restitution Payments	0.12	0.12
Luxembourg	EU Restitution Payments	0.07	0.07
Netherlands	EU Restitution Payments	0.10	0.10
Norway	Indirect (Milk) Subsidy	0.32	0.32
	Consumer Subsidy	0.14	0.14
Total		0.46	0.46
Portugal	EU Restitution Payments	0.09	0.09
Spain	EU Restitution Payments	0.09	0.09
Switzerland	Deficiency Payments	0.12	0.12
U.K.	EU Restitution Payments	0.11	0.11

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 00–8158 Filed 3–31–00; 8:45 am]
BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Welded Carbon Steel Pipes and Tubes From Turkey; Final Results of Full Sunset Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of full sunset review: welded carbon steel pipes and tubes from Turkey.

SUMMARY: On November 30, 1999, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset review of the countervailing duty order on welded carbon steel pipes and tubes from Turkey (64 FR 66895) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We did not receive comments from either domestic or respondent interested parties. As a result of this review, the Department finds that revocation of this order would be likely to lead to continuation or recurrence of a countervailable subsidy at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–1930 or (202) 482–1560, respectively.

EFFECTIVE DATE: April 3, 2000.

Statute and Regulations

Unless otherwise indicated, all citations to 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 regulations are to 19 CFR Part 351 (1999). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Background

On November 30, 1999, the Department of Commerce (''the Department'') published in the **Federal Register** a notice of preliminary results of the full sunset review of the countervailing duty order on welded carbon steel pipes and tubes from Turkey, pursuant to section 751(c) of the Act. In our preliminary results, we found that revocation of the order would be likely to lead to continuation or recurrence of countervailable subsidies, and we preliminarily determined the following net countervailable subsidies likely to prevail if the order were revoked:

Producer/exporter	Margin (percent)
Bant Boru	0.00
Borusan Group	0.68
Yucel Boru Group	0.84
Erbosan	2.89
All Others	2.90

In addition, our preliminary results contained information on the nature of the subsidy. We did not receive a case brief on behalf of either domestic or respondent interested parties within the deadline specified in 19 CFR 351.309(c)(1)(i).

Scope of Review

This order covers shipments of Turkish welded carbon steel pipes and tubes, having an outside diameter of 0.375 inch or more, but not more than 16 inches, of any wall thickness. These products, commonly referred to in the industry as standard pipe and tube or structural tubing, are produced in accordance with various American Society Testing and Materials (ASTM) specifications, most notably A–53, A–120, A–500, or A–501. The subject merchandise was originally classifiable under item number 416.30 of the Tariff Schedules of the United States Annotated (''TSUSA''); currently, they are classifiable under item numbers 7306.30.10 and 7306.30.50 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the TSUSA and HTSUS item numbers are provided for convenience and customs purposes, the written description remains dispositive.

Analysis of Comments Received

The Department did not receive case briefs from either domestic or respondent interested parties. Therefore, we have not made any changes to our preliminary results of November 30, 1999 (64 FR 66895).

Final Results of Preview

As a result of this review, the Department finds that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy at the levels listed below:

Producer/Exporter	Margin (percent)
Bant Boru	0.00
Borusan Group	0.68
Yucel Boru Group	0.84
Erbosan	2.89
All Others	2.90

In addition, we are providing information on the nature of the countervailable subsidy programs with respect to Article 3.1 (a) or Article 6 of the Subsidies Agreement as contained in our preliminary results.

The *Deduction from Taxable Income for Export Revenues* and *Pre-Shipment Export Credit* programs fall within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement because the receipt of benefit is contingent on export performance.

The remaining programs, although not falling within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement, could be found to be inconsistent with Article 6 if the net countervailable subsidy exceeds five percent, as measured in accordance with Annex IV of the Subsidies Agreement. However, the Department has no information with which to make such a calculation, nor do we believe it appropriate to attempt such a calculation in the course of a sunset review. Rather, we are providing the Commission with the following program descriptions.

Foreign Exchange Loan Assistance. The Government of the Republic of Turkey (''GRT'') Resolution Number: 94/5782, Article 4, effective June 13, 1994, concerns the encouragement of exportation, allowing commercial banks to exempt certain fees provided that the loans are used in the financing of exportation and other foreign exchange earning activities. The exempted fees include a Resource Utilization Stabilization Fund fee of six percent of the loan principle, a Banking Insurance Tax equal to five percent of the interested and a stamp tax equal to 0.6 percent of the principal.[1]

Incentive Premium on Domestically Obtained Goods. Companies holding investment incentive certificates under the *General Incentives Program (''GIP'')* are eligible for a rebate of 15 percent VAT paid on locally-sourced machinery and equipment. Imported machinery and equipment are subject to the VAT and are not eligible for the rebate. These value added tax (''VAT'') rebates are countervailable subsidies within the meaning of section 771(5)(D)(ii) of the Act because the rebates constitute revenue foregone by the GRT, and they provide a benefit in the amount of the VAT savings to the company. Also, they are specific under section 771(5A)(C) because their receipt is contingent upon the use of domestic goods rather than imported goods (62 FR 64808, December 9, 1997).

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely written notification of the return or destruction of APO materials 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 five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: March 28, 2000.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–8157 Filed 3–31–00; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Preliminary Results and Partial Rescission of Countervailing Duty Administrative Reviews*, 62 FR 64808 (December 9, 1997).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032800E]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council will convene a public meeting via conference call of the Red Drum Stock Assessment Panel (RDSAP).

DATES: This meeting will be via conference call on April 17, 2000, beginning at 10:00 a.m. EST.

ADDRESSES: A listening station will be available at the following location:

NMFS Southeast Regional Office, 9721 Executive Center Drive, North, St. Petersburg, FL 33702.

Contact: Georgia Cranmore at 727–570–5305.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The RDSAP will be convened via conference call on April 17, 2000, beginning at 10:00 a.m. EST. The RDSAP will continue their review of a stock assessment on the status of the red drum stocks in the Gulf of Mexico prepared by NMFS. The RDSAP will consider available information, including but not limited to, commercial and recreational catches, natural and fishing mortality estimates, recruitment, fishery-dependent and fishery-independent data, and data needs. These analyses will be used to determine the condition of the stocks and the levels of acceptable biological catch (ABC). The RDSAP may also review estimates of stock size (biomass at maximum sustainable yield [Bmsy]) and minimum stock size thresholds (MSST). Currently it is illegal to harvest or possess red drum in Federal waters.

The conclusions of the RDSAP will be reviewed by the Council's Standing and Special Red Drum Scientific and Statistical Committee (SSC), and Red Drum Advisory Panel (RDAP) at meetings held between May 3–5, 2000.

A copy of the agenda can be obtained by contacting the Council (see **ADDRESSES**).

Although other non-emergency issues not on the agenda may come before the RDSAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the RDSAP will be restricted to those issues specifically identified in the agenda 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.

Special Accommodations

The listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by April 10, 2000.

Dated: March 29, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–8162 Filed 3–31–00; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Cambodia

March 28, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: April 4, 2000.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased for carryover, carryforward and recrediting unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 70217, published on December 16, 1999.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 28, 2000.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 10, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Cambodia and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on April 4, 2000, you are directed to increase the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Cambodia:

Category	Adjusted twelve-month limit [1]
331/631	1,823,730 dozen pairs.
334/634	180,812 dozen.
335/635	76,479 dozen.
338/339	2,559,000 dozen.
340/640	882,450 dozen.
345	110,600 dozen.
347/348/647/648	2,950,800 dozen.
352/652	705,960 dozen.
438	95,068 dozen.
445/446	123,321 dozen.
638/639	957,240 dozen.
645/646	294,150 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–8127 Filed 3–31–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Korea

March 28, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: April 4, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist,

Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 68334, published on December 7, 1999.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 28, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 1, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the period which began on January 1, 2000 and extends through December 31, 2000.

Effective on April 4, 2000, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Group I	
200–223, 224–V [2], 224–O [3], 225, 226, 227, 300–326, 360–363, 369pt. [4], 400–414, 464, 469pt. [5], 600–629, 666, 669–P [6], 669pt. [7], and 670–O [8], as a group.	393,877,020 square meters equivalent.
Sublevels within Group II	
338/339	1,323,212 dozen.
352	197,291 dozen.
638/639	5,243,856 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

[2] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[3] Category 224–O: all remaining HTS numbers in Category 224.

[4] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091, 6307.90.9905, (Category 369–L); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[6] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[7] Category 669pt.: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040.

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–8128 Filed 3–31–00; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0079]

Proposed Collection; Comment Request Entitled Corporate Aircraft Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0079).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Corporate Aircraft Costs. This OMB clearance expires on July 31, 2000.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Comments may be submitted on or before June 2, 2000.

ADDRESSES: Comments, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jeremy Olson, Office of Federal Acquisition Policy Division, GSA, (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Government contractors that use company aircraft must maintain logs of flights containing specified information to ensure that costs are properly charged against Government contracts and that directly associated costs of unallowable activities are not charged to such contracts.

B. Annual Reporting Burden

Number of Respondents: 3,000.

Responses Per Respondent: 1.

Total Responses: 3,000.

Average Burden Per Response: 6 hours.

Total Burden Hours: 18,000.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0079, Corporate Aircraft Costs, in all correspondence.

Dated: March 29, 2000.

Edward C. Loeb,

Director,Federal Acquisition Policy Division.

[FR Doc. 00–8136 Filed 3–31–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0129]

Proposed Collection; Comment Request Entitled Cost Accounting Standards Administration

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0129).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Cost Accounting Standards Administration. This OMB clearance expires on July 31, 2000.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Comments may be submitted on or before June 2, 2000.

ADDRESSES: Comments, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jeremy Olson, Federal Acquisition Policy Division, GSA, 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 30.6 and 52.230–5 include pertinent rules and regulations related to the Cost Accounting Standards along with necessary administrative policies and procedures. These administrative policies require certain contractors to submit cost impact estimates and descriptions in cost accounting practices and also to provide information on CAS-covered subcontractors.

B. Annual Reporting Burden

Number of Respondents: 644.
Responses Per Respondent: 2.27.
Total Responses: 1,462.
Average Burden Hours Per Response: 200.85.
Total Burden Hours: 293,643.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0129, Cost Accounting Standards Administration, in all correspondence.

Dated: March 29, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 00–8137 Filed 3–31–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0132]

Proposed Collection; Comment Request Entitled Contractors' Purchasing Systems Reviews

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0132).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Contractors' Purchasing Systems Reviews. This OMB clearance expires on July 31, 2000.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Comments may be submitted on or before June 2, 2000.

ADDRESSES: Comments, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA, (202) 501–3755.

SUPPLEMENTARY INFORMATION:

A. Purpose

The objective of a contractor purchasing system review (CPSR), as discussed in Part 44 of the FAR, is to evaluate the efficiency and effectiveness with which the contractor spends Government funds and complies with Government policy when subcontracting. The review provides the administrative contracting officer a basis for granting, withholding, or withdrawing approval of the contractor's purchasing system.

B. Annual Reporting Burden

Number of Respondents: 1,580.
Responses Per Respondent: 1.
Total Responses: 1,580.
Average Burden Per Response: 17.

Total Burden Hours: 26,860.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, FAR Secretariat (MVRS), Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0132, Contractors' Purchasing Systems Reviews, in all correspondence.

Dated: March 29, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 00–8138 Filed 3–31–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Army

Revision of MTMC Freight Traffic Rules Publication No. 4A, Item 255 and MTMC Guaranteed Traffic Rules Publication No. 50, Item 715, Both Entitled ''Computation of Freight Charges''

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice.

SUMMARY: The Military Traffic Management Command (MTMC), as the Department of Defense (DOD) Traffic Manager for surface and surface intermodal traffic management services (DTR vol. 1, pg. 101–113), hereby modifies the text of the existing rule, entitled ''Computation of Freight Charges,'' in MFTRP No. 4A, Item 255 and MGTRP No. 50, Item 715. The purpose of this modification is to change the basis of freight charge computation for bulk petroleum tank truck shipments from gross volume to a different methodology (sometimes referred to as ''net'' volume) in order to better conform to what has become an accepted industry practice as well as to comply with procedures and automated systems used by or being implemented by the Defense Energy Support Center.

DATES: This change is effective May 1, 2000.

ADDRESSES: Point of Contact: Headquarters, Military Traffic Management Command, ATTN: MTOP–JF, Room 608, 5611 Columbia Pike, Falls Church, VA 22041–5050, fax: 703–681–9871 attn: Jerome Colton, e-mail: coltonj@mtmc.army.mil.

FOR FURTHER INFORMATION CONTACT: For additional information contact Mr. Jerome Colton, MTMC at (703) 681–1417 or Mr. Keith Pladson, DESC at (703) 767–8381.

SUPPLEMENTARY INFORMATION: A notice proposing this change was published in the **Federal Register**, vol. 64, no. 204, page 57075, Tuesday, October 22, 1999. In response to this notice, a total of one (1) comment was received. The synopsis of the comment and response are as follows:

Comment: The phrase ''to conform to standard industry practice'' is not understood. Standard industry practice is to charge the gross gallons amount. Why should we change this to net gallons just for government locations? For at least 27 years gross gallon charges have been in effect. Changing is a waste of time and money.

Response: 1. DOD has researched the loading points served by the commenter. All locations use temperature compensating meters so all can—and do—provide net volumes.

2. While gross gallons was indeed the industry standard in the past, this standard has been changing in favor of net gallons. As temperature-compensating meters are now in common use, using net gallons is (a) easily determined; (b) the measurement of choice as volume fluctuations due to temperature are eliminated; and (c) used by the majority of transportation modes. DOD has therefore chosen net gallons to be the standard for its new automated system, which covers the transportation of bulk fuel by all modes. In those few instances or locations where temperature-compensating meters are unavailable, conversion tables can be used.

3. All discussions held with carriers both prior to and after the previous **Federal Register** notice proposing this change contradict the commenter's assertions. These discussions indicated, without exception, that carriers either welcome or have no difficulty with this change. The fact that there was only one negative comment reinforces this conclusion.

4. Carriers are free to file rate changes if they believe the change will adversely affect their revenue.

(End of Response)

It is therefore determined that this proposed change should be implemented, effective May 1, 2000. As this change may affect the revenue that bulk petroleum tank truck carriers receive for movements of DOD bulk petroleum shipments, carriers providing such services to DOD may wish to review their existing tenders to see if any further action on their part is in their interests. Effective May 1, 2000, paragraph 1 of the relevant item in the two rules publications (MFTRP No. 4A, Item 255 and MGTRP No. 50, Item 715) will read as follows: ''Except as provided in paragraph 2, freight charges in DOD tenders governed by this publication will be the greater of:

a. The amount computed by multiplying the carrier's rate by the minimum gallonage stated in the carrier's applicable tender, or

b. The amount computed by multiplying the carrier's rate by the temperature-corrected gallonage placed in the vehicle at the time of loading. Temperature-corrected gallonage is defined as the volume correction to gallons at 60 degrees Fahrenheit (sometimes referred to as ''net volume'') and will be determined by the loading facility through either the use of temperature-compensating meters or by manual conversion in accordance with the appropriate tables in the most recent edition of the API Manual of Petroleum Measurement Standards (MPMS).''

(end of change)

In general, changes to a rules publication (including this change) will no longer be accompanied by a mass mailing to carriers and other interested parties of the page containing the change. Instead, the rules publication will be updated on the MTMC website (www.mtmc.army.mil) to incorporate changes. From the MTMC website, click in succession on: Transportation Services, Freight Logistics, Freight Traffic Rules Publications, and then select the Rules Publication of your choice.

Regulatory Flexibility Act: This change is not considered rule making within the meaning of the Regulatory Flexibility Act, 5 U.S.C 601–612.

Paperwork Reduction Act: The Paperwork Reduction Act, 44 U.S.C 3051 et seq., does not apply because no information collection requirement or recordskeeping responsibilities are imposed on offerors, contractors, or members of the public.

Walter Scullion,

Chief, Freight Services Division (Acting), Joint Traffic Management Office.

[FR Doc. 00–8090 Filed 3–31–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Sandia

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental

Management Site-Specific Advisory Board (EM–SSAB), Kirtland Area Office (Sandia).

DATES: Wednesday, April 19, 2000: 6:00 p.m.–9:00 p.m. (MST)

ADDRESSES: Los Volcanes Senior Citizens Center, 6500 Los Volcanes Road, NW., Albuquerque, NM 87102, Phone: (505) 836–8745.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, MS–0184, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

6:00 p.m. Check-In/Agenda Approval/Minutes
6:15 p.m. Meeting Manager Update on Coordinating Council decisions made and to be made
6:25 p.m. No Further Action (NFA)—Round 2
Discuss Process Improvement
Questions/Concerns—Terms
Who is Doing What
Process—Site Evaluation
7:05 p.m. Public Comment
7:20 p.m. Break
7:35 p.m. New Mexico Environmental Department (NMED) Presentation on Mixed Waste Landfill (MWLF)—Questions and Answers Session
8:15 p.m. Mark Baskaran Introduction (Independent Contractor)
8:25 p.m. Task Group Reports
8:40 p.m. Board Input into Coordinating Council Agenda for May
8:45 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, MS–0184, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on March 29, 2000.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–8114 Filed 3–31–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG00–1–001]

Clear Creek Storage Company, L.L.C.; Notice of Filing

March 28, 2000.

Take notice that on March 8, 2000, Clear Creek Storage Company, L.L.C. filed revised standards of conduct in response to the Commission's February 11, 2000 Order. 90 FERC ¶ 61,143 (2000).

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, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before April 12, 2000. 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. This filing may be viewed on the web at http://www.ferc.fed.ud/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–8062 Filed 3–31–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA00–5–000]

Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.; Notice of Filing

March 28, 2000.

Take notice that on March 9, 2000, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (Commonwealth) submitted revised standards of conduct under Order No. 889 *et seq.*[1] to reflect a reorganization of the transmission function. Commonwealth also states that it has revised its organizational charts and job descriptions on the OASIS.

Commonwealth states that it served copies of the filing on the service list in this proceeding.

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 April 12, 2000. 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Commonwealth's 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. 00–8059 Filed 3–31–00; 8:45 am]

BILLING CODE 6717–01–M

[1] Open Access Same-Time Information System (Formerly Real-Time Information Network) and Standards of Conduct, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles January 1991–1996 ¶ 31,035 (April 24, 1996), Order No. 889–A, *order on rehearing,* 62 FR 12484 (March 14, 1997), III FERC Stats. & Regs. ¶ 31,049 (March 4, 1997); Order No. 889–B, *rehearing denied,* 62 FR 64715 (December 9, 1997), III FERC Stats. & Regs. ¶ 31,253 (November 25, 1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–57–000]

Niagara Mohawk Power Corporation, Complainant, v. New York Independent System Operator, Respondent; Notice of Filing

March 28, 2000.

Take notice that on March 24, 2000, Niagara Mohawk Power Corporation (Niagara Mohawk) submitted a Complaint pursuant to Section 206 of the Federal Power Act against the New York Independent System Operator (NYISO). The Complaint concerns the NYISO's refusal to permit Niagara Mohawk to self-supply Operating Reserves and the recent increases in the prices for Operating Reserves in the NYISO.

Copies of the filing were served upon the NYISO and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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 April 13, 2000. 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 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 April 13, 2000.

David P. Boergers,

Secretary.

[FR Doc. 00–8115 Filed 3–31–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

TransAlta Energy Marketing (US), Inc. et al.; Notice of Issuance of Orders

March 28, 2000.

	Docket Nos.
In the matter of:	
TransAlta Energy Marketing (US), Inc.	ER98–3184–000
CinCap V, LLC	ER98–4055–000
Southern Energy California, L.L.C.	ER99–1841–000
Sierra Pacific Energy Company.	ER00–500–000
Storm Lake Power Partners I, LLC.	ER98–4643–000
Southern Energy Potrero, L.L.C.	ER99–1833–000
Southern Energy Delta, L.L.C.	ER99–1842–000
O'Brien (Philadelphia) Cogeneration, Inc.	ER00–644–000
Portland General Electric Co.	ER98–1643–000
Portland General Electric Company.	ER99–1263–000
AG Energy, L.P	ER98–2782–000
Great Bay Power Corporation.	ER98–3470–000
Cadillac Renewable Energy LLC.	ER98–4515–000
Boralex Stratton Energy Inc.	ER98–4652–000
Dighton Power Associates. L.P.	ER99–616–000
AEE 2, L.L.C	ER99–2284–000
Sithe New Jersey Holdings LLC.	ER99–3692–000
Rayburn County Electric Cooperative, Inc.	ER00–23–000
Merchant Energy Group of the Americas, Inc.	ER98–1055–000
Western Energy Marketers, Inc.	ER98–537–000
TransCanada Power Marketing Ltd.	ER98–564–000
Equinox Energy, LLC	ER98–1486–000
Energy Unlimited, Inc	ER98–1622–000
Competisys LLC	ER98–1790–000
Pacific Energy & Development Corporation.	ER98–1824–000
Bollinger Energy Corporation.	ER98–1821–000
Micah Tech Industries, Inc.	ER98–1221–000
XERXE Group, Inc	ER98–1823–000
Eastern Pacific Energy	ER98–1829–000
Kamps Propane, Inc	ER98–1148–000
Polaris Electric Power Company.	ER98–1421–000
American Home Energy Corporation.	ER98–1903–000
People's Utility Corporation.	ER98–2232–000
Nine Energy Services, LLC.	ER98–1915–000
Salem Electric, Inc	ER98–2175–000
First Choice Energy	ER98–2181–000
PG Energy Power Plus	ER98–1953–000
Energy International Power Marketing Corporation.	ER98–2059–000
Hafslund Energy Trading LLC.	ER98–2535–000
The FURSTS Group, Inc	ER98–2423–000
Spare, LLC	ER98–2671–000
Energy PM, Inc.	ER98–2918–000
Econnergy Energy Company, Inc.	ER98–2553–000
Nicole Energy Services	ER98–2683–000
TransCurrent, LLC	ER98–1297–000
Pelican Energy Management, Inc.	ER98–3084–000
Rainbow Power USA LLC.	ER98–3012–000
Electrion, Incorporated	ER98–3171–000
Environmental Resources Trust, Inc.	ER98–3233–000
Rocky Mountain Natural Gas & Electric LLC.	ER98–3108–000
Astra Power LLC	ER98–3378–000
Fortistar Power Marketing LLC.	ER98–3393–000
JMF Power Marketing	ER98–3433–000
Reliable Energy, Inc.	ER98–3261–000
Northeast Electricity Inc	ER98–3048–000
American Premier Energy Corporation.	ER98–3451–000
3E Technologies, Inc	ER98–3809–000
ONEOK Power Marketing Company.	ER98–3897–000
Navarco Ltd	ER98–4139–000
Panda Guadalupe Power Marketing, LLC.	ER98–3901–000
Omni Energy	ER98–3344–000
Primary Power Marketing, L.L.C.	ER98–4333–000
International Energy Ventures, Inc.	ER98–4264–000
Abacus Group Ltd	ER98–4240–000
ENMAR Corporation	ER99–254–000
ACN Power, Inc.	ER98–4685–000
Golden Valley Power Company.	ER98–4334–000
Lakeside Energy Services, LLC.	ER99–505–000
Metro Energy Group, LLC.	ER99–801–000
River City Energy, Inc	ER99–823–000
Business Discount Plan, Inc.	ER99–581–000
Commodore Electric	ER99–1890–000
CP Power Sales 15, LLC	ER99–890–000
CP Power Sales 14, LLC	ER99–891–000
CP Power Sales 13, LLC	ER99–892–000
CP Power Sales 12, LLC	ER99–893–000
CP Power Sales 11, LLC	ER99–894–000
CP Power Sales Eleven, LLC.	ER99–3202–000
Merrill Lynch Capital Services, Inc.	ER99–830–000
Salko Energy Services, Inc.	ER99–1052–000
Michigan Gas Exchange, L.L.C.	ER99–1156–000
StratErgy, Inc	ER99–1410–000
SkyGen Energy Marketing LLC.	ER99–972–000
The Legacy Energy Group, LLC.	ER99–3571–000
Cielo Power Market, L.P.	ER99–964–000
Enjet, Inc	ER99–2061–000

	Docket Nos.
Shell Energy Services Company, LLC.	ER99–2109–000
Alliance Energy Services Partnership.	ER99–1945–000
ECONnergy PA, Inc	ER99–1837–000
Trident Energy Marketing, Inc.	ER99–2069–000
Total Gas & Electricity (PA), Inc.	ER99–2182–000
TransAlta Energy Marketing (CA) Inc.	ER99–2343–000
NJR Energy Services Company.	ER99–2384–000
Agway Energy Services—PA, Inc.	ER99–2313–000
Genstar Energy, L.L.C ...	ER99–2364–000
GreenMountain.com	ER99–4324–000
Old Mill Power Company	ER99–2883–000
Delta Energy Group	ER99–2970–000
Navitas, Inc	ER99–2537–000
Nautilus Energy Company.	ER98–2618–000
Full Power Corporation ..	ER99–2540–000
Complete Energy Services, Inc.	ER99–3033–000
Occidental Power Marketing, L.P.	ER99–3665–000
Energy Cooperative of Western New York, Inc.	ER99–3411–000
FPH Electric, L.L.C	ER99–3142–000
Power Management Co., LLC.	ER99–3275–000
MCHC—Shared Services, Inc.	ER99–3705–000
International Energy Consultants, Inc.	ER99–3130–000
CP Power Sales 19, L.L.C.	ER99–4338–000
CP Power Sales 17, L.L.C.	ER99–4229–000
CP Power Sales 18, L.L.C.	ER99–4230–000
CP Power Sales 20, L.L.C.	ER99–4231–000
Sandia Resources Corporation.	ER99–4044–000
InPower Marketing Corporation.	ER99–3964–000
SmartEnergy.Com, Inc ...	ER00–140–000
Strategic Energy Management Corporation.	ER00–167–000
PG Power Sales Three, L.L.C.	ER00–954–000
PG Power Sales One, L.L.C.	ER00–955–000
PG Power Sales Two, L.L.C.	ER00–956–000
Nordic Marketing, L.L.C	ER00–774–000
Energy West Resources, Inc.	ER00–874–000
Alrus Consulting, LLC	ER00–861–000
Sithe PA Holdings LLC ..	ER99–4245–000
Sithe Mystic LLC	ER99–2671–000
AG Energy, L.P	ER98–2782–000

The above-captioned applicants (Applicants) submitted for filing a rate schedule under which the Applicants will engage in wholesale electric power and energy transactions as a marketer. The Applicants also requested waiver of various Commission regulations. In particular, the Applicants requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by the Applicants.

Pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulations, granted requests for blanket approval under Part 34, subject to the issuance of notices providing for an opportunity to be heard. Accordingly:

Within thirty days of the date of this notice, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by the Applicants should file a motion to intervene or protests 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).

Absent a request for hearing within this period, the Applicants are authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of the Applicants' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 28, 2000.

Copies of the full text of the Orders are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order 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. 00–8065 Filed 3–31–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1–000]

TransEnergie U.S. Ltd.; Notice of Filing

March 28, 2000.

Take notice that on March 21, 2000, TransEnergie U.S. Ltd. (TEUS) tendered for filing a supplemental statement to demonstrate how TEUS' proposed Cross Sound Cable (CSC) Interconnector advances the goals of Order No. 2000.

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 April 7, 2000. 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. 00–8061 Filed 3–31–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–55–000, et al.]

Sun River Electric Cooperative, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 27, 2000.

Take notice that the following filings have been made with the Commission:

1. Sun River Electric Cooperative, Inc.

[Docket No. EL00–55–000]

Take notice that on March 20, 2000, Sun River Electric Cooperative, Inc. (SREC) filed a Request for Waiver of the requirements of Order No. 888 and Order No. 889.

Comment date: April 19, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. San Diego Gas & Electric Company v. Public Service Company of New Mexico

[Docket No. EL00–56–000]

Take notice that on March 23, 2000, San Diego Gas & Electric Company (SDG&E) tendered for filing a complaint with the Commission against Public Service Company of New Mexico (PNM). In the complaint, SDG&E states that the demand rate charged SDG&E by PNM under a long-term 100-megawatt system power sale is excessive, unjust, unreasonable, unduly discriminatory, and contrary to the public interest. SDG&E asks the Commission to initiate a proceeding under Section 206(b) of the Federal Power Act to investigate the rate and establish a refund effective date of May 22, 2000. SDG&E asks that the complaint be consolidated for hearing and decision with the proceeding in Docket Nos. EL97–54–002 and EL99–21–000.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall also be due on or before April 12, 2000.

3. Entergy Services, Inc.

[Docket No. ER00–1933–000]

Take notice that on March 22, 2000, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a new Attachment M to its Open Access Transmission Tariff, designated as FERC Electric Tariff Original Volume No. 3, addressing transmission business practices related to source and sink information required for reserving and scheduling point-to-point transmission service.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power Corporation

[Docket No. ER00–1934–000]

Take notice that on March 22, 2000, Florida Power Corporation (Florida Power) tendered for filing a service agreement providing for non-firm point-to-point transmission service and a service agreement providing for short term firm point-to-point transmission service by Florida Power to TXU Energy Trading Company (TXU) pursuant to its open access transmission tariff.

Florida Power requests that the Commission waive its notice of filing requirements and allow the agreements to become effective on March 15, 2000.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Entergy Services, Inc.

[Docket No. ER00–1935–000]

Take notice that on March 22, 2000, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc. (Entergy Arkansas), tendered for filing a Notice of Cancellation of the Electric Peaking Power Agreement between City of Campbell, Missouri and Entergy Arkansas.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER00–1936–000]

Take notice that on March 22, 2000, Entergy Services, Inc. (Entergy), on behalf of Entergy Arkansas, Inc. (Entergy Arkansas), tendered for filing a Notice of Cancellation of the Electric Peaking Power Agreement between City of Osceola, Arkansas and Entergy Arkansas.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Southwest Power Pool, Inc.

[Docket No. ER00–1937–000]

Take notice that on March 22, 2000, Southwest Power Pool, Inc. (SPP) tendered for filing executed service agreements for Firm Point-to-Point Transmission Service, Non-Firm Point-to-Point Transmission and Loss Compensation Service with Eastex Cogeneration Limited Partnership, El Paso Merchant Energy, L.P., FPL Energy Power Marketing, Inc., and Sunflower Electric Power Corp., as well as executed service agreements for Non-Firm Point-to-Point Transmission and Loss Compensation Service with Conectiv Energy Supply, Inc.

SPP requests an effective date of March 8, 2000 for the agreements with Eastex, March 13, 2000 for the agreements with El Paso, February 25, 2000 for the agreements with FPL, March 13, 2000 for the agreements with Sunflower, and March 14, 2000 for the agreements with Conectiv.

Copies of this filing were served upon all signatories.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER00–1938–000]

Take notice that on March 22, 2000, Cinergy Services, Inc. submitted an Interconnection Agreement entered into by and between Cinergy Services, Inc. (Cinergy) and Duke Energy Madison, LLC (Duke Energy Madison) and a Facilities Construction Agreement by and between Cinergy and Duke Energy Madison, both of which are dated February 28, 2000.

The Interconnection Agreement between the parties provides for the interconnection of a generating station with the transmission system of The Cincinnati Gas & Electric Company (CG&E), a Cinergy utility operating company, and further defines the continuing responsibilities and obligations of the parties with respect thereto. The Facilities Construction Agreement between the parties provides for the construction and installation of the interconnection facilities and the additions, modifications and upgrades to the existing transmission facilities of CG&E.

Cinergy requests an effective date of February 28, 2000 for the Interconnection Agreement and the Facilities Construction Agreement.

Cinergy states that it has served a copy of its filing upon the Public Utility Commission of Ohio and Duke Energy Madison.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER00–1939–000]

Take notice that on March 22, 2000, Cinergy Services, Inc. submitted an Interconnection Agreement entered into by and between Cinergy Services, Inc. (Cinergy) and Duke Energy Vermillion, LLC (''Duke Energy Vermillion''), and a Facilities Construction Agreement by and between Cinergy and Duke Energy Vermillion, both of which are dated February 28, 2000.

The Interconnection Agreement between the parties provides for the interconnection of a generating station with the transmission system of PSI Energy, Inc. (PSI Energy), a Cinergy utility operating company, and further defines the continuing responsibilities and obligations of the parties with respect thereto. The Facilities Construction Agreement between the parties provides for the construction and installation of the interconnection facilities and the additions, modifications and upgrades to the existing transmission facilities of PSI Energy.

Cinergy requests an effective date of February 28, 2000 for both the Interconnection Agreement and the Facilities Construction Agreement.

Cinergy states that it has served a copy of its filing upon the Indiana

Utility Regulatory Commission and Duke Energy Vermillion.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Duquesne Light Company

[Docket No. ER00–1941–000]

Take notice that on March 22, 2000, Duquesne Light Company (DLC) filed a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated March 21, 2000, Niagra Mohawk Energy Marketing, Inc. under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds Niagra Mohawk Energy Marketing, Inc. as a customer under the Tariff.

DLC requests an effective date of March 21, 2000 for the Service Agreement.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Northern Maine Independent System Administrator, Inc.

[Docket No. ER00–1942–000]

Take notice that on March 22, 2000, Northern Maine Independent System Administrator, Inc. (NMISA) tendered for filing seven service agreements under the Northern Maine Independent System Administrator Tariff (Northern Maine ISA Tariff) for the following Market Participants: Maine Public Service Company, Inc., Houlton Water Company, Energy Atlantic LLC, Eastern Maine Electric Cooperative, Inc., WPS Energy Services, Inc., FPL Energy Power Marketing, Inc. and Alternative Energy. NMISA has determined that these applicants are qualified to become Market Participants under the Northern Maine ISA Tariff.

NMISA requests an effective date for implementation of these service agreements of March 1, 2000, to coincide with the date on which NMISA will commence commercial operation and retail access will begin in Northern Maine.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Southwestern Electric Power Company

[Docket No. ER00–1943–000]

Take notice that on March 22, 2000, Southwestern Electric Power Company (SWEPCO) tendered for filing an estimated return on common equity (Estimated ROE) to be used in establishing estimated formula rates for wholesale service in Contract Year 2000 to Northeast Texas Electric Cooperative, Inc., the City of Bentonville, Arkansas, Rayburn Country Electric Cooperative, Inc., Cajun Electric Power Cooperative, Inc., Tex-La Electric Cooperative of Texas, Inc., the City of Hope, Arkansas, and East Texas Electric Cooperative, Inc. SWEPCO provides service to these Customers under contracts which provide for periodic changes in rates and charges determined in accordance with cost-of-service formulas, including a formulaic determination of the return on common equity.

Copies of the filing were served upon the affected wholesale Customers, the Public Utility Commission of Texas, the Louisiana Public Service Commission and the Arkansas Public Service Commission.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. LSP Energy Limited Partnership

[Docket No. ER00–1944–000]

Take notice that on March 22, 2000, LSP Energy Limited Partnership (LSP Energy) tendered for filing under Section 205 of the Federal Power Act a Power Purchase Agreement dated February 25, 2000 between LSP Energy and the Tennessee Valley Authority.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. FirstEnergy System

[Docket No. ER00–1945–000]

Take notice that on March 22, 2000, FirstEnergy System filed a Service Agreement to provide Firm Point-to-Point Transmission Service for Conectiv Energy Supply, Inc., the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective date for this Service Agreement is March 20, 2000.

Comment date: April 12, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Duquesne Light Company

[Docket No. ER00–1946–000]

Take notice that on March 22, 2000, Duquesne Light Company (Duquesne) tendered for filing under Duquesne's pending Market-Based Rate Tariff, (Docket No. ER98–4159–000) executed Service Agreement at Market-Based Rates with Allegheny Energy Supply Company, LLC (Customer).

Duquesne has requested the Commission waive its notice requirements to allow the Service Agreement to become effective as of March 21, 2000.

Copies of this filing were served upon Customer.

Comment date: April 12, 2000, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or 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. 00–8058 Filed 3–31–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11301–001 Georgia]

Fall Line Hydro Company; Notice of Availability of Environmental Assessment

March 28, 2000.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 4797), the Office of Energy Projects has reviewed the application for an original major license for the Carters Reregulation Dam Hydroelectric Project located on the Coosawatte River in Murray County, Georgia, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures,

would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch of the Commission's offices at 888 First Street, N.E., Room 2A, Washington, D.C. 20426, and may also be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–8060 Filed 3–31–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1121–052]

Pacific Gas and Electric Company; Notice of Availability of Environmental Assessment

March 28, 2000.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Energy Projects has reviewed the application requesting the Commission's authorization to amend Article 33 (f) of the existing license and has prepared an Environmental Assessment (EA) for the proposed action.

Flashboards are needed to raise the existing North Battle Creek Reservoir to its full capacity, 1,039-acre-feet, for the recreation season. The proposed amendment to article 33(f) would allow the licensee to delay up to one month (from June 1 to July 1) the placement of flashboards at North Battle Creek dam when late runoff or heavy snow pack precludes road access to the dam by truck. During such years, the licensee: would install flashboards as soon as roads are passable by truck; and would notify the Forest Supervisor of Lassen National Forest five business days prior to June 1 and, subsequently, once the reservoir is at or above 1,039-acre-feet.

In the EA, Commission staff does not identify any significant impacts that would result from Commission's approval of the proposed modification to Article 33(f). Thus, staff concludes that approval of the proposed amendment of license would not constitute a major federal action significantly affecting the quality of the human environment.

The EA has been attached to and made part of an Order Amending Article 33(f), issued March 22, 2000, for the Battle Creek Hydroelectric Project, FERC No. 1121–052. See 90 FERC ¶ 62,201. Also, the EA is available for inspection at the Commission's Public Reference Room, Room 2A, 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. Further, the document may be viewed on the Web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance.

For further information, please contact Jim Haimes at (202) 219–2780.

David P. Boergers,

Secretary.

[FR Doc. 00–8063 Filed 3–31–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Temporary Variance Request and Soliciting Comments, Motions To Intervene, and Protests

March 28, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request To Amend Language of Article 29.

b. *Project No.:* 2210–047.

c. *Date filed:* February 22, 2000.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Smith Mountain Project.

f. *Location:* On the Roanoke River, Bedford, Franklin, Campbell, Pittsylvania, and Roanoke Counties, Virginia. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Frank M. Simms, American Electric Power, 1 Riverside Plaza, Columbus, OH 43215–2373, (614) 223–2918.

i. *FERC Contact:* Robert Fletcher, robert.fletcher@ferc.fed.us, 202–219–1206.

j. *Deadline for filing comments, motions to intervene and protest:* 30 days from the issuance date of this notice. Please include the project number (2210–047) on any comments or motions filed. 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.

k. *Description of Application:* Article 29 of the Smith Mountain Project currently read as follows: ''Except as provided for in Article 30, the Licensee shall release from the Lower development a minimum average weekly flow of 650 cubic feet per second.''

It should be noted that Article 30 addresses flows during the initial filling of the project reservoir. Conditions contained under license articles for other projects issued by the Commission address temporary modifications to project flow. The language generally reads as follows: ''These flows may be temporarily modified if required by operating emergencies beyond the control of the licensee, or for short periods upon mutual agreement between the licensee and the appropriate agencies. If the flows are so modified, the licensee shall notify the Commission as soon as possible, but not later than 10 days after each such incident.''

The licensee has consulted with the Virginia Department of Fish and Game and Inland Fisheries and the Virginia Department of Environmental Quality to develop the following language to replace the currently contained language of Article 29: ''Except as provided in Article 30, the licensee shall release from the Lower Development a minimum average weekly flow of 650 cubic feet per second. These flows may be temporarily modified if required by operating emergencies beyond the control of the licensee, and/or for short periods of time (up to 45 days) during drought and/or low inflow conditions, upon mutual agreement between the licensee and the Virginia Department of Environmental Quality (DEQ), in consultation with the Virginia Department of Game and Inland Fisheries, following appropriate public input as determined by the DEQ. If the flows are so modified, the licensee shall notify the Commission no later than 10 days after each such incident.''

l. *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, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on 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 in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210,

385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–8064 Filed 3–31–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6565–8]

Agency Information Collection Activities; Training Requirements for Authorization of Compliance Monitoring Inspectors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Training Requirements for Authorization of Compliance Monitoring Inspectors, EPA ICR number 1960.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before July 3, 2000.

ADDRESSES: Jonathan S. Binder (2224A), U.S. EPA, 401 M St., S.W., Washington D.C. 20460. Interested persons may obtain a copy of the ICR without charge by calling Jonathan S. Binder at (202) 564–2516.

FOR FURTHER INFORMATION CONTACT: Jonathan S. Binder, (202) 564–2516. Facsimile number: (202) 564–0009.

SUPPLEMENTARY INFORMATION: *Affected entities:* Entities potentially affected by this action are federally-recognized Indian tribes (tribes), states, and territories, as well as inter-tribal consortia who maintain a cooperative agreement with the EPA, whose environment inspectors are nominated for authorization or are currently authorized to conduct federal inspections on behalf of EPA. The request for information from these affected entities is voluntary and based upon the desire of tribes, states, territories, or inter-tribal consortia to enable their employees to receive federal inspector credentials.

Title: Training Requirements for Authorization of Compliance Monitoring Inspectors.

Abstract: This will be a collection of information on the training background of employees of tribes, states, territories, and inter-tribal consortia who are nominated for authorization or are currently authorized to conduct federal inspections on behalf of EPA.

Various federal environmental laws authorize the Administrator of EPA or her designee to monitor the regulated communities' compliance with statutory and regulatory requirements. Through the development of standard procedures, EPA is planning to ''authorize'' or ''duly designate'' inspectors employed by tribes, states, territories, and inter-tribal consortia to conduct environmental compliance inspections (inspections) with federal credentials on behalf of EPA. The standard procedures will be designed to facilitate a partnership between EPA and tribes, states, territories, and inter-tribal consortia to protect human health and the environment.

With this initiative, EPA strives to build the capacity of regulating agencies and/or departments for more effective compliance monitoring of the regulated community. Under the draft national procedures, EPA retains sole responsibility for authorizing inspectors and issuing, replacing, renewing, and revoking federal credentials. EPA also retains decision-making authority for all federal enforcement and compliance assistance activities related to inspections conducted by authorized inspectors using federal credentials. As such, neither tribes, states, nor territories, nor authorized inspectors could take a federal enforcement action with information gathered during an inspection conducted with a federal credential unless otherwise authorized to do so by EPA.

The draft national standards seek to ensure the quality of inspectors who receive or retain authorization to conduct inspections on behalf of EPA. EPA needs to collect certain information that is currently not collected and which does not exist in our current databases. To meet this need, EPA designed a training requirements form that will make it easy for EPA, tribes, states, territories, and their employees to assess the qualifications of inspectors who receive or retain authorization to conduct inspections on EPA's behalf. There are three components to the collection of information on training taken by individual inspectors. First, the '' title of the training'' is required. Second, the ''completion date'' of the training is required. Third and finally, the ''training sponsor'' is required. To ensure that the courses meet the requirements of the draft Inspector Credentials Authorization Procedures, EPA may also request the outline or other information on training courses sponsored by non-EPA entities; tribes, states, territories, and inter-tribal consortium are encouraged to attach this information when sending this form to EPA.

The training requirements form can be completed electronically and E-mailed to the appropriate Agency contact or sent in hardcopy via the postal service or express mail. Moreover, the training requirements form will be available via the Internet.

A Department or 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 EPA is soliciting comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Burden Statement: It is estimated that approximately 80 regulating agencies and/or departments and inter-tribal consortia may voluntarily agree to nominate employees to receive federal inspector credentials and submit information on the training experiences of each inspector. EPA estimates that participating regulating agencies and/or departments and/or inter-tribal consortia may need to spend 45 minutes to complete the form (30 minutes of staff time and 15 minutes of a supervisor's time) for each affected employee. EPA is estimating that each agency, on average, may nominate 2 inspectors for authorization to receive federal credentials. Therefore, a total of 120 person hours within the regulating agencies and/or departments and/or inter-tribal consortia may be expended to provide EPA with the training experiences. This burden hour estimate translates to a cost of $32.66 per each of the 80 regulating agency and/or department and/or inter-tribal consortia that voluntarily completes the background information form for two inspectors and a total cost of $2,612.80. The costs to the regulating agencies and/or departments and/or inter-tribal consortia were calculated based on labor rates of $17.48 per hour, plus $30.34 supervisory time from the United States of Commerce, Bureau of Labor Statistics, March 1998, Table 4: Employment Costs of State and Local Government. 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; collect, validate, and verify 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.

Dated: March 17, 2000.

Michael Stahl,

Acting Director Office of Compliance.

[FR Doc. 00–8154 Filed 3–31–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6570–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations

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 proposed Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval:

Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations, ICR 1937.01. The ICR describes the nature of the information collection request and its expected burden and cost.

DATES: Comments must be submitted on or before May 3, 2000.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epa.gov, or download a copy of the ICR off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1937.01. For technical questions about the ICR contact Charlotte White by telephone: (202) 260–8559.

SUPPLEMENTARY INFORMATION: *Title:* Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations (EPA ICR No. 1937.01). This is a new collection.

Abstract: This information collection burden is a result of EPA's issuance of guidance concerning permits issued to concentrated animal feeding operations (CAFOs), which are point sources subject to permitting under the National Pollutant Discharge Elimination System (NPDES). Also affected by the permit guidance provisions are NPDES-authorized States implementing the NPDES permitting program for CAFOs. The animal livestock industry is shifting toward larger facilities and increased potential for water quality impacts. To help address the potential and actual impacts on water quality, the manual provides guidance for permitting agencies regarding the development of effective NPDES permits for CAFOs. Although the guidance does not increase the number of CAFOs subject to permitting under the NPDES permitting program, it recommends the development of a comprehensive nutrient management plan (CNMP) as a special condition of NPDES permits issued to CAFOs. This proposed ICR covers the development of the CNMP, which includes soil and manure sampling; reporting of CNMP development to the permitting authority; and other reporting and record keeping activities that are not described in the current NPDES program guidance for CAFOs. When CNMPs are part of the NPDES permit, the collection of information requirements of the CNMP are mandatory. EPA has authority to undertake the information collection activities under section 308 of the Clean Water Act and under Title 33, sections 1311, 1318, and 1342 of the United States Code. Components of a CNMP typically include: manure handling and storage, land application of manure, land management, recordkeeping, and other utilization options. EPA believes this CNMP will reduce the potential impact that changes in the industry will have on water quality. CNMP data will be used by EPA and States to develop permits, used by the regulated facilities to ensure appropriate land application, and used by the compliance monitoring and enforcement personnel to document NPDES permit compliance. The guidance also recommends that the permittee maintain records concerning manure generation and disposition, and summarize this information on an annual reporting form. Under the guidance, the permittee would also be asked to certify that the facility's CNMP reflects current conditions. EPA needs this information to more fully and effectively implement the requirements of the Clean Water Act, which prohibits the discharge of pollutants from point sources—including discharges from CAFOs—to waters of the United States without an NPDES permit.

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 November 19, 1999 (64 FR 63312); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 81 hours per response for CAFO respondents and 2,200 hours for States. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose and provide information to or for a Federal agency. This includes the time needed to: (1) review instructions; (2) 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; (3) adjust the existing ways to comply with any previously applicable instructions and requirements; (4) train personnel to be able to respond to a collection of information; (5) search data sources; (6) complete and review the collection of information; and (7) transmit or otherwise disclose the information.

Respondents/Affected Entities: Concentrated animal feeding operations, EPA, and NPDES-authorized States implementing the NPDES permitting program for CAFOs.

Estimated Number of Respondents: 5,529 per year.

Frequency of Response: CAFOs have one time CNMP record keeping and reporting requirements and annual certification reporting requirements. States have annual record keeping requirements.

Estimated Total Annual Hour Burden: 983,205 hours.

Estimated Total Annualized Cost Burden (non-labor costs): $665,373.

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. 1937.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave., NW, 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: March 28, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–8153 Filed 3–31–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6566–1]

New Jersey State Prohibition on Marine Discharges of Vessel Sewage; Receipt of Petition and Tentative Determination

Notice is hereby given that a petition dated June 28, 1999 was received from the State of New Jersey requesting a determination by the Regional Administrator, Environmental Protection Agency (EPA), pursuant to Section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of the Shrewsbury River, County of Monmouth, State of New Jersey.

This petition was made by the New Jersey Department of Environmental Protection (NJDEP) in cooperation with the North Coast Regional Environmental Planning Council (NCREPC), New Jersey Marine Sciences, Marine Trades Association of New Jersey, Monmouth County Planning Board, Monmouth County Environmental Council and Monmouth County Board of Health. Members of the NCREPC include the Borough of Eatontown, the Borough of Fair Haven, the Borough of Little Silver, the City of Long Branch, the Borough of Monmouth Beach, the Borough of Oceanport, the Borough of Red Bank, the Borough of Rumson, the Borough of Sea Bright, the Borough of Shrewsbury, the Township of Shrewsbury, the Borough of Tinton Falls, and the Borough of West Long Branch. Upon receipt of an affirmative determination in response to this petition, NJDEP would completely prohibit the discharge of sewage, whether treated or not, from any vessel in Shrewsbury River in accordance with Section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a).

The Shrewsbury River is located in Monmouth County, New Jersey, and is part of the Atlantic Coastal Drainage Basin. The Shrewsbury River drains approximately 27 square miles of urban/suburban residential development and agricultural lands. The Shrewsbury River runs easterly from Eatontown, Tinton Falls, and West Long Branch, New Jersey and then joins the Navesink River and empties into Sandy Hook Bay. The proposed No Discharge Area (NDA) would include the navigable waters of the Shrewsbury River and all its tributaries downstream to the point where the Route 36 Bridge crosses the river. The eastern boundary of the NDA is a line from Lat./Long. 73°58′45″, 40°22′40″ to Lat./Long. 73°58′58″, 40°23′04″. The western boundary of the NDA is at Lat./Long. 74°06′48″, 40°19′12″.

Information submitted by the State of New Jersey and the Shrewsbury Regional Environmental Planning Council states that there are six existing pump-out facilities at five different locations available to service vessels which use the Shrewsbury River. Atlantis Yacht Club, located at 66 River Avenue, Monmouth Beach, operates a stationary pumpout. The pumpout is available from 8 a.m. to 5 p.m. beginning April until October and is operated by the marina staff. A $5.00 fee is charged for the use of the pumpout. Carriage House Marina, located at 1200 Ocean Avenue, Sea Bright, operates a stationary pumpout and a portable pumpout. The pumpouts are available from 9 a.m. to 6 p.m. beginning May until October and is operated by the marina staff. A fee of $5.00 is charged for the use of the pumpout. Channel Club Marina, located at Channel Drive, Monmouth Beach, operates a stationary pumpout. The pumpout is available from 8:00 a.m. to 6:00 p.m. beginning May until October and is operated by the marina staff. No fee is charged for use of the pumpout. Navesink Marina, located at 1410 Ocean Avenue, Sea Bright, operates a stationary pumpout. The pumpout is available from 8:00 a.m. to 5:00 p.m. beginning April until October and is operated by the marina staff. A $5.00 fee is charged for the use of the pumpout. Oceanport Landing, located at 417 River Street, Oceanport, operates a portable pumpout. The pumpout is available from 8 a.m. to 4:30 p.m. beginning April until September and is operated by the marina staff. A $5.00 fee is charged for use of the pumpout. In the case of slip holders and residents of Oceanport, the $5.00 fee is waived. None of the facilities have draft restrictions which would exclude boats access to the pumpouts.

Vessel waste generated from the pumpout facilities within the proposed NDA is discharged into municipal sewer lines and is conveyed to the Northeast Monmouth Regional Sewage Authority (NJPDES Permit No. NJ0024520) at 1 Highland Avenue in Monmouth Beach for treatment.

According to the State's petition, the maximum daily vessel population for the waters of Shrewsbury River is approximately 2115 vessels. This estimate is based on (1) vessels docked at marinas and yacht clubs (1303 vessels), (2) vessels docked at non-marina facilities (584 vessels) and (3) transient vessels (228 vessels). The vessel population based on length is 2240 vessels less than 26 feet in length, 700 vessels between 26 feet and 40 feet in length and 175 vessels greater than 40 feet in length. Based on number and size of boats, and using various methods to estimate the number of holding tanks, it is estimated that between two and four pumpouts are needed for the Shrewsbury River. As previously stated, five pumpout facilities are currently available to service the boating population. Additionally, three additional pumpouts have applied for pumpout grant funding.

The EPA hereby makes a tentative affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Shrewsbury River in the county of Monmouth, New Jersey. A final determination on this matter will be made following the 30-day period for public comment and will result in a New Jersey State prohibition of any sewage discharges from vessels in Shrewsbury River.

Comments and views regarding this petition and EPA's tentative determination may be filed on or before May 3, 2000. Comments or requests for information or copies of the applicant's petition should be addressed to Walter E. Andrews, U.S. Environmental Protection Agency, Region II, Water Programs Branch, 290 Broadway, 24th Floor, New York, New York, 10007–1866. Telephone: (212) 637–3880.

Dated: March 16, 2000.

Jeanne M. Fox,

Regional Administrator, Region II.

[FR Doc. 00–8145 Filed 3–31–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6565–9]

New York State Prohibition on Marine Discharges of Vessel Sewage; Receipt of Petition and Tentative Determination

Notice is hereby given that a petition was received from the State of New York on June 18, 1999 requesting a determination by the Regional Administrator, Environmental Protection Agency (EPA), pursuant to Section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of the Greater Huntington-Northport Bay Complex, County of Suffolk, State of New York. The waterbodies included in this application are Lower Huntington Bay, Northport Bay, Centerport Harbor, Northport Harbor, Duck Island Harbor and Price Bend. A previous application which was approved by the Regional Administrator on April 21, 1994 designated Huntington Harbor and Lloyd Harbor as a No Discharge Area.

This petition was made by the New York Department of Environmental Conservation (NYSDEC) in cooperation with the Town of Huntington. Upon receipt of an affirmative determination in response to this petition, NYSDEC would completely prohibit the discharge of sewage, whether treated or not, from any vessel in Greater Huntington-Northport Bay Complex in accordance with Section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a).

The Greater Huntington-Northport Bay Complex is located on the north shore of Long Island with approximately 64 miles of tidal shoreline contiguous to Long Island Sound. Huntington's marine waters are comprised of approximately 8,000 acres of harbors, bays and tidal wetlands that support some of the most productive shellfish growing lands in New York State. Adjacent shores also serve as private and public bathing beaches. The northern boundary line for the proposed NDA shall extend from the southernmost point at East Beach (Lloyd Harbor) easterly to the southernmost point at West Beach or ''Sand City Beach.''

Information submitted by the State of New York and the Town of Huntington indicate that there are ten existing pumpout facilities and two pumpout boats available to service vessels which use the Greater Huntington-Northport Bay Complex. Mill Dam Marina (Huntington Harbor), located on Mill Dam Road, Huntington, operates a pumpout. The pumpout is available 24 hours a day beginning May 1 through October 31 and is self-service. No fee is charged for the use of the pumpout. Halesite Marina (Huntington Harbor), located on Route 110, Halesite, operates a pumpout. The pumpout is available 24 hours a day and twelve months a year and is self-service. No fee is charged for the use of the pumpout. South Town Dock (Huntington Harbor), located on Route 110, Halesite, operates a pumpout. The pumpout is available from 8:00 a.m. to 8:00 p.m. beginning May 1 through October 31 and is self-service. No fee is charged for the use of the pumpout. Gold Star Mooring and Launch Service (Huntington Harbor), located at West Shore Road and Browns Road, Huntington, operates a pumpout. The pumpout is available from 8:00 a.m. to 8:00 p.m. beginning April 1 through November 15 and is self-service. No fee is charged for the use of the pumpout. West Shore Marina (Huntington Harbor), located at 100 West Shore Road, Huntington, operates a pumpout. The pumpout is available by appointment only from 10 a.m. to 4 p.m. year round. A $10.00 fee is charged for the use of the pumpout. Huntington Yacht Club (Huntington Harbor), located at 95 East Shore Road, Huntington Bay, operates a pumpout. The pumpout is available from 9:00 a.m. to 5:00 p.m. beginning March 1 through November. A fee of $5.00 is charged for the use of the pumpout. Knutson's West Marine (Huntington Harbor), located at 41 East Shore Road, Halesite, operates a pumpout. The pumpout is available from 8:00 a.m. to 6:00 p.m. beginning May 30 through October 31. A fee of $10.00 is charged for the use of the pumpout. The Town of Huntington operates a mobile pumpout vessel which serves the Greater Bay Complex from May 15 through October 12. No fee is charged for the service. The Town of Huntington is in the process of procuring an additional mobile pumpout vessel. Woodbine Marina (Northport Harbor), located at Woodbine Avenue, Northport, operates a pumpout. The pumpout is available twenty-four hours a day beginning May 1 through October 31 and is self-service. No fee is charged for the use of the pumpout. Seymour's Boat Yard (Northport Harbor), located on Bayview Avenue, Northport, operates a pumpout. The pumpout is available from 8:00 a.m. to 4:30 p.m. by appointment beginning May 1 through October 31. A fee of $25.00 is charged for the use of the pumpout. Brittania Yacht and Racquet Club (Northport Harbor), located at 81C Fort Salonga Road, Northport, operates a pumpout. The pumpout is available from 8:00 a.m. to 4:30 p.m. beginning April 15 through October 31. A fee of $20.00 is charged for the use of the pumpout. The Village of Northport operates a mobile pumpout vessel which serves Northport Harbor, Northport Bay and Duck Island Harbor beginning May 23 through October 12. No fee is charged for the service. Powles Marine Agency (Cold Spring Harbor),

located at 74 Harbor Road, Cold Spring Harbor, operates a pumpout. The pumpout is available 24 hours a day beginning May 1 through October 31 and is self-service. No fee is charged for the use of the pumpout. This facility is located outside of the proposed NDA and is not included as one of the ten landside facility. The facility has been included in the application for information purposes.

Vessel waste generated from the pumpout facilities located at West Shore Marina, Knutson's West Marina, Huntington Yacht Club, Brittania Yacht and Seymour's are hauled by privately operated waste haulers. The Town of Huntington provides waste hauling service to the municipally owned pumpout facilities located at Cold Spring Harbor, Halesite Marina, Mill Dam Marina, Woodbine Marina, and Gold Star Mooring and Launch Service. All hauled waste from the pumpout facilities is discharged into and treated at the Town of Huntington sewage treatment plant (SPDES Permit No. NY0021342) located on Creek Road in Halesite.

According to the State's petition, the maximum daily vessel population for the waters of Greater Huntington-Northport Bay Complex is approximately 3200 vessels which are docked or moored with an additional 700 vessels accessing the greater Harbor from boat ramps. An inventory was developed including the number of recreational, commercial and estimated transient vessels that occupy or traverse the greater bay complex. This estimate is based on (1) vessels (approximately 1600 vessels) docked or moored (including transients) in the proposed NDA, (2) vessels (approximately 1600 vessels) docked or moored (including transients) in the existing Huntington/Lloyd Harbor NDA and (3) vessels (approximately 700 vessels) which use the boat ramps in the Greater Bay Complex. While approximately one-third to one-half of the vessels operating in the Greater Bay Complex are not equipped with a MSD, the ratio of boats to pumpout facilities has been based on the total number of vessels which could be expected. With ten shore-side pumpout facilities and two pumpout facilities available to boaters, the ratio of docked or moored boats (including transients) is approximately 267 vessels per pumpout. If we include the vessels (approximately 700) using the available boat ramps, the ratio increase to 325 vessels per pumpout. Standard guidelines refer to acceptable ratios failing in the range of 300 to 600 vessels per pumpout.

The EPA hereby makes a tentative affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Greater Huntington-Northport Bay Complex in the county of Suffolk, New York. A final determination on this matter will be made following the 30-day period for public comment and will result in a New York State prohibition of any sewage discharges from vessels in Greater Huntington-Northport Bay Complex.

Comments and views regarding this petition and EPA's tentative determination may be filed on or before May 3, 2000. Comments or requests for information or copies of the applicant's petition should be addressed to Walter E. Andrews, U.S. Environmental Protection Agency, Region II, Water Programs Branch, 290 Broadway, 24th Floor, New York, New York, 10007–1866. Telephone: (212) 637–3880.

Dated: March 16, 2000.

Jeanne M. Fox,

Regional Administrator, Region II.

[FR Doc. 00–8146 Filed 3–31–00; 8:45 am]

BILLING CODE 6560–50–U

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. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

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 April 27, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. First Merchants Corporation, Muncie, Indiana; to merge with Decatur Financial, Inc., Decatur, Indiana, and thereby indirectly acquire Decatur Bank and Trust Company, Decatur, Indiana.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Leackco Bank Holding Company, Inc., Wolsey, South Dakota; to merge with C&L Investment Company, Inc., Miller, South Dakota, and thereby indirectly acquire Hand County State Bank, Miller, South Dakota.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. CBCT Bancshares, Inc., Baltimore, Maryland, to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Central Texas, ssb, Smithville, Texas.

Board of Governors of the Federal Reserve System, March 28, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–8087 Filed 3–31–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 981 0395]

Abbott Laboratories, and Geneva Pharmaceuticals, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: The consent agreements in these two matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before April 17, 2000.

ADDRESSES: Comments should be directed to FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Richard Parker or Richard Feinstein, FTC/H–374, 600 Pennsylvania Ave., NW, Washington, DC 20580. (202) 326–2574 or 326–3688.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 16, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania. Ave., NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis To Aid Public Comment

The Federal Trade Commission has accepted for public comment agreements and proposed consent orders with Geneva Pharmaceuticals, Inc. and Abbott Laboratories. The proposed consent orders settle charges that these parties unlawfully agreed that Geneva would refrain from selling its generic vision of one of Abbott's drugs, in exchange for payments from Abbott. The proposed consent orders have been placed on the public record for 30 days to receive comments by interested persons. The proposed consent orders have been entered into for settlement purposes only and do not constitute an admission by Abbott or Geneva that they violated the law or that the facts alleged in the complaint, other than the jurisdictional facts, are true.

Background

Abbott Laboratories develops, manufactures, and sells a variety of health care products and services. Based in Abbott Park, Illinois, Abbott's 1998 net sales worldwide were approximately $12.5 billion. Over 20% of Abbott's net sales of pharmaceutical products in the U.S. are for a drug called Hytrin. Hytrin is used to treat two chronic conditions that affect millions of Americans, particularly senior citizens: hypertension (high blood pressure) and benign prostatic hyperplasia (enlarged prostate).

Geneva is one of the leading generic drug manufacturers in the United States. An indirect wholly-owned subsidiary of Novartis Corp., Geneva is based in Broomfield, Colorado. Geneva developed a generic version of Hytrin, and in March 1998 received approval from the U.S. Food and Drug Administration (''FDA'') to market that generic product.

A generic drug is a product that the FDA has found to be bioequivalent to a brand name drug. A company seeking FDA approval to market a new drug must file a New Drug Application (''NDA''). In order to market a generic version of a brand name drug, a company must file an Abbreviated New Drug Application (''ANDA'') and receive approval from the FDA.

Generic drugs are chemically identical to their branded counterparts, but typically are sold at substantial discounts from the branded price. A Congressional Budget Office Report estimates that purchasers saved an estimated $8–$10 billion on prescriptions at retail pharmacies in 1994 by purchasing generic drugs instead of the brand name product.[1]

Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984, commonly referred to as ''the Hatch-Waxman Act,'' to facilitate the entry of generic drugs while maintaining incentives to invest in new drug development. In particular, the Hatch-Waxman Act establishes certain rights and procedures in situations where a company seeks FDA approval to market a generic product prior to the expiration of a patent or patents relating to a brand name drug upon which the generic is based. In such cases, the applicant must: (1) Certify to the FDA that the patent in question is invalid or is not infringed by the generic product (known as a ''paragraph IV certification''); and (2) notify the patent holder of the filing of the certification. If the holder of patent rights files a patent infringement suit within 45 days, FDA approval to market the generic drug is automatically stayed for 30 months, unless before that time the patent expires or is judicially determined to be invalid or not infringed. This automatic 30-month stay allows the patent holder time to seek judicial protection of its patent rights before a generic competitor is permitted to market its product.

In addition, the Hatch-Waxman Act provides an incentive for generic drug companies to bear the cost of patent litigation that may arise when they challenge invalid patents or design around valid ones. The Act grants the first company to file an ANDA in such cases a 180-day period during which it has the exclusive right to market a generic version of the brand name drug. No other generic manufacturer may obtain FDA approval to market its product until the first filer's 180-day exclusivity period has expired.

Geneva was the first company to file an ANDA for terazosin hydrochloride (''terazosin HCL''), the generic version of Hytrin. It filed applications covering a tablet form and a capsule form of its generic terazosin HCL. Geneva filed a paragraph IV certification with the FDA stating that these products did not infringe any valid patent held by Abbott covering terazosin HCL. In June 1996, Abbott sued Geneva for patent infringement by Geneva's terazosin HCL tablet product, but due to an oversight failed to mane an infringement claim against Geneva's capsule product, although both products raised the same potential infringement issues.

Abbott's lawsuit triggered a 30-month stay of final FDA approval of Geneva's terazosin HCL tablet ANDA, until December 1998. No stay applied to the FDA approval process for Geneva's terazosin HCL capsule ANDA, however, because no infringement claim was filed within the statutory time period required by the Hatch-Waxman Act. The FDA granted Geneva final approval to market generic terazosin HCL capsules on March 30, 1998.

The Challenged Agreement

The complaint challenges an agreement whereby Abbott, following the FDA approval of Geneva's generic terazosin HCL capsule product, paid

[1] Congressional Budget Office, How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry at xiii, 13 (July 1998).

Geneva not to enter the market during their ongoing patent litigation over the tablet product. According to the complaint, on the day it was granted approval to market its generic terazosin HCL capsules, Geneva contacted Abbott and announced that it would launch its generic terazosin HCL capsules unless it was paid by Abbott not to enter. Two days later, on April 1, 1998, Abbott and Geneva entered into an agreement, pursuant to which Geneva agreed not to enter the market with any generic terazosin HCL capsule or tablet product until the earlier of: (1) The final resolution of the patent infringement litigation involving Geneva's terazosin HCL tables product, including review through the Supreme Court; or (2) entry of another generic terazosin HCL product.

Geneva also agreed-at Abbott's insistence-not to transfer, assign, or relinquish its 180-day exclusively right. The effect of this provision was to ensure that no other company's generic terazosin HCL product could obtain FDA approval; and enter the market during the term of the agreement, because Geneva's agreement not to launch its product meant that the 180-day exclusivity period would not expire.

In exchange, Abbott agreed to pay Geneva $4.5 million per month until a district court judgment in the parties' patent infringement dispute, and then (assuming Geneva won in the district court) to pay the $4.5 million monthly payments into an escrow fund until the final resolution of the litigation, which Geneva would then receive if its district court victory was upheld.

Abbott's payment to Geneva of $4.5 million a month was well over the $1 to $1.5 million per month that, the complaint states, Abbott believed Geneva would forego by staying off the market. The complaint alleges that Abbott was willing to pay Geneva a ''premium'' to refrain from competing because of the substantial impact that launch of a generic version of Hytrin would have on Abbott's overall financial situation. Abbott forecasted that entry of generic terazosin HCL on April 1, 1998 would eliminate over $185 million in Hytrin sales in just six month. Accordingly, the complaint charges, Abbott sought to forestall Geneva—and all other potential generic competition to Hytrin-from entering the market because of the threat they represented to the high profits it was making from Hytrin.

The complaint further charges that, in accordance with the terms of the agreement, Geneva did not enter the market with its generic terazosin HCL capsules, even after the district court and the court of appeals upheld Geneva's position that Abbott's patent was invalid. In August 1999, Abbott and Geneva—aware of the Commission's investigation—terminated their agreement (which by its terms would not have ended until disposition of the litigation by the Supreme Court). Geneva finally brought its generic terazosin HCL capsule product to market on August 13, 1999.

Competitive Analysis

The complaint charges that the challenged agreement prevented competition that Abbott's Hytrin product would otherwise have faced from generic products of Geneva and other potential generic competitors. Generic drugs can have a swift marketplace impact, because pharmacists generally are permitted, and in some instances are required, to substitute lower-priced generic drugs for their branded counterparts, unless the prescribing physician directors otherwise. In addition, there is a ready market for generic products because certain third-party payers of prescription drugs (*e.g.,* state Medicaid programs and many private health plans) encourage or insist on the use of generic drugs wherever possible. Abbott's forecasts, the complaint states, projected that generic terazosin HCL would capture roughly 70% of Hytrin sales within the first six months following its launch. The agreement, however, ensured that Geneva would not offer generic terazosin HCL in competition with Hytrin, and would not take action-such as relinquishing exclusivity rights-that would have permitted the entry of any other generic manufacturer.

These restraints on generic competition had direct and substantial effects on consumers. Without a lower-priced generic alternative, consumers, government agencies, health plans, pharmacies, hospitals, wholesalers, and others were forced to purchase Abbott's more expensive Hytrin product. Other drugs, the complaint states, are not effective substitutes for terazosin HCL because they are different in terms of chemical composition, safety, efficacy, and side effects. There is little price sensitivity between terazosin HCL and other products. Thus, the complaint alleges that the sale of terazosin HCL in the United States in the relevant market within which to assess the effects of the challenged agreement.

The challenged conduct represents an agreement not to compete between potential horizontal competitors. A firm is a potential competitor if there is evidence that entry by that firm is reasonably probable in the absence of the agreement at issue.[2] Geneva certified to the FDA that its entry with generic HCL would not infringe a valid patent, and was confident that it ultimately would prevail in its patent infringement dispute with Abbott, the complaint states. In early 1998, Geneva was making preparations to launch its generic terazosin HCL capsule product as soon as possible. After receiving FDA approval for the capsule product, Geneva threatened to launch that product unless Abbott paid it not to do so. The challenged agreement directly restrained competition between these potential competitors.

In addition, the agreement created a bottleneck that prevented any other potential competitors from entering the market, because no other ANDA filer could obtain FDA approval until Geneva's 180 day exclusivity period expired. Other companies were developing generic terazosin HCL products, and at least one other generic manufacturer had satisfied the FDA's requirements for approval by February 1999, but was barred from entering the market because Geneva's failure to launch its product meant its 180-day exclusivity right had not even begun to run.

The complaint states that the challenged agreement is not justified by any countervailing efficiency. Although the agreement between Abbott and Geneva provided substantial private benefits to both parties, the facts in this matter demonstrate that the broad restraints were not justified by any benefits to competition and consumer welfare. The Commission considered whether the agreement could be considered a procompetitive effort to effectuate a temporary settlement of a patent dispute, akin to a court-ordered preliminary injunction. However, it finds that any legitimate interest in resolving patent disputes cannot justify the harm to consumers imposed by the agreement in this case. The restraint imposed exceeds what likely would be available to the parties under a court-ordered preliminary injunction. For example, it: (1) Barred Geneva's entry beyond the pendency of the district court litigation; (2) provided large up-front payments that could be expected to create disincentives for Geneva to enter (in contrast to a court-ordered bond to cover damages actually incurred as a result of the court's injunction); (3) barred Geneva from relinquishing its

[2] Federal Trade Commission and United States Department of Justice, Antitrust Guidelines for the Licensing of Intellectual Property at § 1.1 n.6(1995)

exclusivity rights; (4) prohibited Geneva from developing or marketing non-infringing generic products. Moreover, the restraints contained in the agreement were entered into without any judicial finding that Abbott was likely to succeed on the merits of its infringement suit, without any consideration of whether Abbott would suffer irreparable injury, and without any weighing of the equities, including any consideration of the public interest.

The complaint also charges that Abbott had a monopoly in the market for terazosin HCL, and, by entering into the agreement with Geneva, Abbott sought to preserve its dominance by delaying the entry of Geneva and other generic companies into the market. As detailed above, there were no countervailing justifications for Abbott's conduct. In addition, the complaint alleges that Abbott and Geneva conspired to monopolize the market for terazosin HCL. As stated in the complaint, Abbott and Geneva acted with specific intent that Abbott monopolize the market for terazosin HCL, and entered into a conspiracy to achieve that goal. Finally, the parties' agreement otherwise amounts to an unfair method of competition in violation of Section 5 of the FTC Act.

The Proposed Orders

The proposed orders are designed to remedy the unlawful conduct charged in the complaint. Although the particular agreement challenged in the complaint has been terminated, prospective relief is necessary to prevent a recurrence of similar agreements with respect to other drugs. Private agreements in which the brand name drug company (the NDA holder) pays the first generic to seek FDA approval (the first filer) not to enter the market can substantially delay generic competition and raise serious antitrust issues. Moreover, the FDA, which has expressed concern about such private agreements, has observed that the incentives for companies to enter into such arrangements are becoming greater, as the returns to the brand name company from extending its monopoly increasingly exceed the potential economic gains to the generic applicant from its 180 days of market exclusivity.[3]

In essence, the proposed orders:

- Bar two particular types of agreements between brand name drug companies and potential generic competitors—restrictions on giving up Hatch-Waxman 180-day exclusivity rights and on entering the market with an non-infringing product;
- Require that agreements involving payments to the generic company to stay off the market be approved by the court when undertaken in the context of an interim settlement of patent litigation, with notice to the Commission to allow it time to present its views to the court;
- Require respondents to give the Commission written notice 30 days before entering into such agreements in other contexts; and
- Require that Geneva waive its right to 180-day marketing exclusivity for its generic terazosin HCL tablet product, so that other generic tablet producers can immediately enter the market.

Paragraph II prohibits two kinds of agreements between ''an NDA Holder'' and ''the ANDA First-Filer'' (that is, the party possessing an unexpired right to Hatch-Waxman 180-day exclusivity). Paragraph II.A. bars agreements in which the first company to file an ANDA agrees with the NDA holder not to relinquish its right to the 180-day exclusivity period established under the Hatch-Waxman Act. Paragraph II.B. prohibits the ANDA first filer from agreeing not to develop or market a generic drug product that is not the subject of a patent infringement lawsuit. The order prohibits restrictions on giving up exclusivity rights and on competing with a non-infringing product because under the circumstances of this case these restraints are not justified.

Paragraph II's focus on agreements between an NDA holder and the ANDA first filer does not mean that the Commission believes that there is no risk of competitive harm in other contexts. In particular, Abbott or Geneva's participation in an agreement in which a generic company that is not the ANDA first filer is paid by the NDA holder not to market a non-infringing product could raise substantial competitive concerns. Given the variety of circumstances in which the restraints may arise, however, and the possibility that some legitimate justifications might exist in some other contexts, the Commission believes that it is appropriate at this time to limit the flat bans in Paragraph II to agreements between NDA holders and ANDA first filers.

Paragraphs III bans private agreements involving payments to keep a generic drug off the market during patent infringement litigation brought by an NDA holder. Abbott and Geneva can enter into such arrangements only if (a) They are presented to the court and embodied in a court-ordered preliminary injunction, and (b) the following other conditions are met: (i) Along with any stipulation for preliminary injunction, they provide the court with a copy of the Commission's complaint, order, and this Analysis to Aid Public Comment in this matter, as well as the proposed agreement between the parties; (ii) at least 30 days before submitting the stipulation to the court, they provide written notice to the Commission; and (iii) they do not oppose Commission participation in the court's consideration of the request for preliminary relief.

Thus, the proposed orders bar agreements made in the context of an interim settlement of a patent infringement action, whereby the NDA holder pays the generic not to enter the market, unless the parties obtain court approval through a process that is designed to enhance the court's ability to assess the competitive implications of the agreement. This remedy, in addition to facilitating the court's access to information about the Commission's views, also makes the process public and thereby may prompt other generic drug manufacturers (or other interested parties) to alert the court to potential anticompetitive provisions that could delay their entry into the market. Furthermore, the Commission believes that the requirement that the agreement be filed on the public record with the court will deter Abbott and Geneva from entering into anticompetitive agreements.

Paragraph IV addresses certain agreements to stay off the market that are not covered by Paragraph III because they do not involve interim relief in a litigated matter. Such situations would include agreements that are part of a final settlement of the litigation, and situations in which no litigation has been brought. In these circumstances, there is no judicial role in ordering relief agreed to by the parties. The Commission is concerned about such private agreements in which the first filer is paid by the NDA holder not to enter the market, because of the substantial risk of competitive harm that they may create. Thus, the order requires that Abbott and Geneva notify the Commission 30 days before entering into an agreement in which an ANDA first filer agrees with an NDA holder to refrain from going to market. Such notice will assist the Commission in detecting anticompetitive agreements before they have caused substantial injury to consumers. Absent the order, there is no mechanism for the antitrust enforcement agencies to find out about such agreements.

[3] FDA Proposed Rule Regarding 180–Day Generic Drug Exclusivity for Abbreviated New Drug Applications, 64 FR 42873, 42882–83 (August 6, 1999).

The form of notice that Abbott and Geneva must provide to the Commission under Paragraphs III and IV of the orders is set forth in Paragraph V. In addition to supplying a copy of the proposed agreement, they are required to provide certain other information to assist the Commission in assessing the potential competitive impact of the agreement. Accordingly, the orders require them to identify, among other things, all others who have filed an ANDA for a product containing the same chemical entities as the product a issue, and the court that is hearing any relevant legal proceedings involving either party. In addition, they must provide the Commission with all documents that evaluate the proposed agreement.

In addition, the proposed order against Geneva requires that it waive its 180-day marketing exclusivity period for its generic terazosin HCL tablet product. Although Geneva's exclusivity right with respect to the terazosin capsules product has expired, its exclusivity period for the tablet product still remains as a barrier to entry. This provision of the order will therefore open the market to greater generic competition in terazosin HCL products.

The proposed orders also contain certain reporting and other provisions that are designed to assist the Commission in monitoring compliance with the order and are standard provisions in Commission orders.

The orders will expire in 10 years.

Opportunity for Public Comment

The proposed orders have been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make the proposed orders final.

The purpose of this analysis is to facilitate public comment on the agreements. The analysis is not intended to constitute an official interpretation of the agreements, the proposed complaint, or the proposed consent orders, or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Chairman Robert Pitofsky and Commissioners Sheila F. Anthony, Mozelle W. Thompson, Orson Swindle, and Thomas B. Leary

The Analysis to Aid Public Comment, published today along with proposed consent orders against Geneva Pharmaceuticals, Inc. and Abbott Laboratories, describes the conduct of those two companies in agreeing that Abbot would pay Geneva to refrain from selling a generic version of Hytrin, Abbott's branded version of terazosin hydrochloride. It also describes relevant provisions of the Drug Price competition and Patent Term Restoration Act of 1984 (''Hatch-Waxman Act''), including particularly the provision that gives the first generic company to seek FDA approval a 180-day period during which it has the exclusive right to market the generic version of a brand name drug.

Pursuant to a private agreement not reviewed by any court, Abbott paid Geneva substantial sums not to enter the market with its generic version of Hytrin, and not to transfer, assign or relinquish its 180-day exclusive marketing right to any other producer of generic products that might compete with Abbot. By not selling its generic version. Geneva prevented the start of the 180-day exclusivity period, with the result that neither Geneva nor any other company could introduce a generic version of Hytrin into the market.

These consent orders represent the first resolution of an antitrust challenge by the government to a private agreement whereby a brand name drug company paid the first generic company that sought FDA approval not to enter the market, and to retain its 180-day period of market exclusivity. Because the behavior occurred in the context of the complicated provisions of the Hatch-Waxman Act, and because this is the first government antitrust enforcement action in this area, we believe the public interest is satisfied with orders that regulate future conduct by the parties. We recognize that there may be market settings in which similar but less restrictive arrangements could be justified, and each case must be examined with respect to its particular facts.

We have today issued an administrative complaint against two other pharmaceutical companies with respect to conduct that is in some ways similar to the conduct addressed by these consent orders. We anticipate that the development of a full factual record in the administrative proceeding, as well as the public comments on these consent orders, will help to shape further the appropriate parameters of permissible conduct in this area, and guide other companies and their legal advisors.

Pharmaceutical firms should now be on notice, however, that arrangements comparable to those addressed in the present consent orders can raise serious antitrust issues, with a potential for serious consumer harm. Accordingly, in the future, the Commission will consider its entire range of remedies in connection with enforcement actions against such arrangements, including possibly seeking disgorgement of illegally obtained profits.

If firms are uncertain about the limits of permissible behavior under the Hatch-Waxman Act, they may, of course, seek advisory opinions from the staff of this agency.

[FR Doc. 00–8129 Filed 3–31–00; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 971 0038]

Colegio de Cirujanos Dentistas de Puerto Rico; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 2, 2000.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Richard Feinstein or Steven Osnowitz, FTC/S–3115, 600 Pennsylvania Ave., NW, Washington, D.C. 20580. (202) 326–2574 or 326–2746.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent

order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 21, 2000), on the World Wide Web, at ''http://www.ftc.gov/ftc/formal.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW,, Washington, D.C. 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, a proposed consent order settling charges that the Colegio de Cirujanos Dentistas de Puerto Rico (''Colegio''), an association of dentists in Puerto Rico: (1) organized boycotts and refusals to deal, and engaged in other anticompetitive conduct, designed to raise prices for dental services; and (2) prohibited its members from engaging in certain types of truthful, nondeceptive advertising. The proposed consent order has been placed on the public record for sixty (60) days to receive comments by interested persons. The proposed consent order has been entered into for settlement purposes only and does not constitute an admission by the Colegio that it violated the law or that the facts alleged in the complaint, other than the jurisdictional facts, are true.

The Complaint

The Colegio is an association of approximately 1800 dentists licensed to practice dentistry in Puerto Rico. Puerto Rico law requires, with certain limited exceptions, that dentists maintain membership in the Colegio to practice in Puerto Rico. Accordingly, the Colegio's members constitute the vast majority of dentists practicing in Puerto Rico.

The complaint charges that the Colegio restrained competition among dentists in Puerto Rico by, among other things, fixing the terms under which individual dentists would deal with health insurers and other payers of health care services, and orchestrating or threatening boycotts of payers by its members to obtain higher reimbursement. According to the proposed complaint, the Colegio promulgated a Code of Ethics that bars dentists from contracting with any health insurance plan (''plan'') that is not endorsed by the Colegio. The Colegio refused to approve plans unless they: reimbursed dentists on a fee-for-service basis rather than capitation; were open to participation by all dentists; and were ''responsive'' to raising fees at the Colegio's request. Plans sought the Colegio's endorsement or approval in order to secure a sufficient number of participating dentists.

The complaint also alleges that the Colegio acted as the collective bargaining agent for its members. Through its Committee on Prepaid Dental Services, and in other ways, the Colegio engaged in discussions with numerous payers about fees and other terms its members would accept from these payers. For example, from 1992 through 1994, the Colegio successfully negotiated on behalf of its members to obtain fee increases from the two largest payers for dental coverage in Puerto Rico, Triple S and La Cruz Azul. In another instance, the complaint charges, the Colegio organized dentists to refuse to deal with a new plan proposed by Triple S that would have paid dentists a set amount per enrollee rather than the traditional fee for service, and Triple S was compelled to cancel the plan.

The complaint further alleges that the Colegio set the prices and other terms under which its member dentists would deal with plans operating under Puerto Rico's Health Insurance Act of 1993 (the ''Reform''), a program to provide health care services to the indigent. During 1995, for example, the Colegio successfully blocked Triple S attempts to implement a new plan in the North Region of the Reform, and defeated Triple S plans to implement a 10% discount for dental fees. In the Central Region of the Reform, the Colegio succeeded in forcing PCA to agree that payments to dentists would be based on fee for service, and that its dental panels would be open to all Colegio members. When PCA attempted in 1996 to revise its dental contracts for the Central Region, in order to provide for utilization and quality audits, the Colegio withheld its endorsement, and PCA was unable to secure contracts with a sufficient number of dentists to offer the plan.

The complaint charges that the Colegio has acted to prevent certain forms of truthful, nondeceptive advertising. Its Code of Ethics bans advertising that is not ''professionally acceptable,'' use of most illustrations, advertisements deemed not in good taste, and all personal solicitations. The complaint further alleges that the Colegio applied its ban on unprofessional advertising against dentists from Ponce, Puerto Rico, who truthfully advertised their willingness to accept Reform patients from neighboring areas where dentists were conducting a boycott of the Reform.

According to the complaint, the Colegio has not integrated the practices of its members in any economically significant way, nor has it created any efficiencies that might justify the acts and practices alleged in the complaint. Rather, the complaint charges that the Colegio's conduct has had the purpose and effect of restraining competition among dentists and injuring consumers by, among other things, fixing or increasing prices for dental services; fixing the terms and conditions upon which dentists would deal with payers, thereby raising the price to consumers of insurance coverage; raising prices paid by the Reform and delaying the offerings of dental services under the Reform; and depriving consumers of truthful information about dental services.

The Proposed Consent Order

The proposed consent order prohibits the Colegio from continuing the illegal conduct described in the complaint. Specifically, Part II of the order prohibits the Colegio from endorsing or approving, refusing to endorse or approve, or prohibiting or declaring unethical a dentist's participation in a health plan based on the amount, manner of calculating, or other terms relating to reimbursement for dental services, or on whether the plan is open to participation by all Colegio members. The Colegio also is prohibited from (1) negotiating on behalf of any dentists with any payer or provider; (2) refusing to deal, boycotting, or threatening to boycott any payer or provider; or (3) determining any terms, conditions, or requirements upon which dentists will deal with any provider, including terms of reimbursement, and whether the plan is open to participation by all Colegio members.

Further, the Colegio is prohibited from communicating to any payer or provider any term, condition, or requirement on which Colegio members are willing or unwilling to deal with a payer or provider, and from communicating with any member concerning the desirability or appropriateness of any term or condition of a payer relating to dental services, or whether the plan is open to participation by all Colegio members. The Colegio cannot facilitate in any manner, or transfer the exchange of, information concerning dentists' intentions to contract with any payer, or under what terms.

The proposed order does not restrict legitimate communications between the Colegio and payers. Health care practitioners' provision of certain kinds of information to payers is not likely to raise antitrust concerns, but instead may serve to promote competition and benefit consumers. For example, the DOJ/FTC Statements of Enforcement Policy in Health Care (1996) define two ''antitrust safety zones'' dealing with the provision of information to payers, and state that conduct falling within these safety zones will not be challenged by the enforcement agencies absent extraordinary circumstances.[1] The proposed order does not prohibit the Colegio from engaging in activities encompassed in these safety zones, or from communicating with payers about other matters, unless the communication is part of an agreement or course of conduct specifically prohibited by the order.

The proposed order likewise does not restrict the right of the Colegio to provide government bodies with information and opinions in an effort to influence legislation or regulatory action. A proviso states explicitly that the order does not prohibit the Colegio from petitioning any federal, state, or Commonwealth government executive agency or legislative body concerning legislation, rules, or procedures, or from participating in any federal, state, or Commonwealth administrative or judicial proceeding, insofar as the activity is protected from antitrust scrutiny by the *Noerr-Pennington* doctrine.[2] That doctrine does not, however, protect price-fixing agreements, refusals to deal, or similar conduct designed to obtain higher prices from government purchasers.[3]

Part III of the proposed order prohibits the Colegio from restricting truthful advertising of dental services or solicitation of patients. The Colegio, however, can formulate, adopt, disseminate, and enforce reasonable ethical guidelines governing the conduct of its members with respect to representations that respondent reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, or with respect to uninvited in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence.

Part IV of the proposed order requires the Colegio to distribute copies of the order and accompanying complaint to its employees and members, and to payers or providers who since January 1, 1995, communicated a desire or interest in contracting for dentists' services. Part IV also requires the Colegio to maintain certain records pertaining to advertising for a period of ten years, while other order provisions will remain in effect for twenty years. Parts V and VI of the proposed order impose certain reporting requirements, while Part VII of the proposed order provides for access to the Colegio's documents and personnel. Parts V, VI, and VII are to assist the Commission in monitoring compliance with the proposed order.

Opportunity for Public Comment

The proposed order has been placed on the public record for sixty (60) days in order to receive public comments from interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The purpose of this analysis is to facilitate public comment on the agreement. The analysis is not intended to constitute an official interpretation of the agreement, the proposed complaint, or the proposed consent order, or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–8130 Filed 3–31–00; 8:45 am]

BILLING CODE 6750–01–M

[1] Statement 5 provides a safety zone for providers' collective provision of ''factual information concerning the providers' current or historical fees or other aspects of reimbursement, such as discounts or alternative reimbursement methods accepted * * *,'' so long as collection of the information meets certain requirements designed to ensure that the exchange of price or cost data is not used by competing providers to discuss or coordinate costs or prices. Statements at 44–45. The safety zone in Statement 4 covers the provision of ''underlying medical data that may improve purchasers' resolution of issues relating to the mode, quality, or efficiency of treatment,'' as well as providers' ''development of suggested practice parameters—standards for patient management developed to assist providers in clinical decisionmaking—that also may provide useful information to patients, providers, and purchasers.'' Statements at 41.

[2] See, e.g., FTC v. Superior Court Trial Lawyers Ass'n, 493 U.S. 411 (1990); United Mine Workers v. Pennington, 381 U.S. 657 (1965); Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127 (1961).

[3] FTC v. Superior Court Trial Lawyers Ass'n, 493 U.S. at 424–425.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

Project 1. First Follow-Up Survey of Youth and Site Visit and Focus Group Protocols for the Federal Evaluation of Initiatives Funded Under Section 510 of the Maternal and Child Health Block Grant Program—The Personal Responsibility and Work Opportunity Reconciliation Act (Public Law 104–193) established Section 510 of the Maternal and Child Health Block Grant Program, the purpose of which is to support state efforts promoting abstinence only education. The Balanced Budget Act of 1997 (Pub. L. 105–33) established a requirement to ''evaluate programs under Section 510.'' This proposed information collection will gather follow-up information for the evaluation—NEW—Respondents: Individuals, state or local governments—Burden Information for First Follow-Up Survey—Number of Respondents: 6,510; Average Burden per Response: .75 hours; Burden: 4,883 hours—Burden Information for Focus Groups—Number of Respondents: 380; Average Burden per Response: 2 hours; Burden: 760 hours—Burden Information for Executive Interviews—Number of Respondents: 330; Average Burden per Response: 1.5 hours; Burden: 495 hours—Total Burden: 6,138 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained

by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW, Washington DC, 20201. Written comments should be received within 30 days of this notice.

Dated: March 24, 2000.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 00–8049 Filed 3–31–00; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Site Visit Protocols for the Multi-Site Evaluation of the Welfare-to-Work Grant Program—0990–0230—Revision—This data collection will provide site specific information for a sample of Welfare-to-Work (WtW) grant programs which will support the Office of the Assistant Secretary for Planning and Evaluation in its efforts to further document the status of the grants program and provide information on implementation issues as part of the Congressionally mandated evaluation of the WtW grants program. Respondents: Individuals, State, Local or Tribal Governments, Non-profit Institutions—Burden Information for Staff Interviews—Number of Responses: 360; Burden per Response: 1 hour; Total Burden for Staff Interviews: 360 hours—Burden Information for Focus Groups—Number of Responses: 350; Burden per Response: 1.5 hours; Total Burden for Focus Groups: 540 hours—Burden Information for Individual Tribal Program Participants—Number of Responses: 50; Burden per Response: .5 hours; Total Burden for Tribal Participants: 30 hours—Total Burden—930 hours.

2. Follow-up Survey for the Multi-Site Evaluation of the Welfare-to-Work Grant Program—New—This information collection will support the Office of the Assistant Secretary for Planning and Evaluation in its efforts to evaluate the WtW grant program by obtaining detailed information on program participants circumstances and experiences with the program. Respondents: Individuals; Number of Respondents: 7225; Number of Responses: 12,750; Burden per Response: 46 minutes; Total Burden: 9819 hours; OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW, Washington, DC, 20201. Written comments should be received within 30 days of this notice.

Dated: March 24, 2000.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 00–8050 Filed 3–31–00; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95N–0304]

Dietary Supplements Containing Ephedrine Alkaloids; Administrative Docket Update; Availability

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of certain documents to update the administrative docket of the proposed rule on dietary supplements containing ephedrine alkaloids. This action is being taken to ensure that interested persons are aware of the updated information. Elsewhere in this issue of the **Federal Register**, FDA is withdrawing certain provisions of the proposed rule on dietary supplements containing ephedrine alkaloids, and establishing a new docket that will contain new adverse event reports and related information concerning these products.

FOR FURTHER INFORMATION CONTACT: Marquita B. Steadman, Center for Food Safety and Applied Nutrition (HFS–7), Food and Drug Administration, 5630 Fishers Lane, Rockville, MD 20852, 301–827–6733.

SUPPLEMENTARY INFORMATION:

I. Background (Proposed Rule)

In the **Federal Register** of June 4, 1997 (62 FR 30678), FDA published a proposed rule on dietary supplements containing ephedrine alkaloids (the ''ephedrine alkaloids proposal''). That proposal would have established a finding that a dietary supplement is adulterated if it contains 8 milligrams or more of ephedrine alkaloids per single serving, required that the labels of products that contain ephedrine alkaloids state, ''Don't use this product for more than 7 days,'' required certain warning statements, and affected other aspects of product labeling for such products. FDA proposed this action after receiving over 800 adverse events associated with the use of dietary supplements that contained, or were suspected to contain, ephedrine alkaloids, and reviewing scientific literature and other data concerning ephedrine alkaloids. FDA received approximately 14,775 comments in response to the ephedrine alkaloids proposal.

II. Updated Information

FDA is updating the docket for the ephedrine alkaloids proposal with additional information, most of which was received after publication of the proposal.

FDA received 270 additional adverse event reports between February and September 1997. FDA added these adverse event reports to the ephedrine alkaloids proposal's docket in two submissions without formal clinical analysis. FDA did not rely on these 270 reports in the ephedrine alkaloids proposal because FDA received them after it began its analysis for the proposal.

FDA has received additional documentation (e.g., copies of product labels and labeling, information on how the consumers used the products at issue and available medical or other clinical records) concerning

approximately 17 of the 270 adverse event reports the agency put in the docket after publication of the ephedrine alkaloids proposal. Consequently, FDA has reorganized these 17 reports to include the additional documentation that the agency has received, and it has redacted the files. FDA is now placing the 17 reorganized and redacted adverse event charts in the ephedrine alkaloids proposal's docket.

Should FDA receive additional information on the adverse events that are part of the administrative docket for the ephedrine alkaloids proposal, the agency will include it in that docket.

This updated information may be seen by interested persons at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 28, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–8112 Filed 3–31–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1200]

Dietary Supplements Containing Ephedrine Alkaloids; Availability

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of certain new adverse event reports (AER's) and related information, the vast majority of which were received after publication of the proposed rulemaking on dietary supplements containing ephedrine alkaloids. The agency is also announcing its intention to participate in a public forum to address this new information. This document is being issued to ensure that interested persons are aware of the new information the agency has available on these products and its plans to seek public input on this new information. Elsewhere in this issue of the **Federal Register**, FDA is withdrawing certain provisions of the proposed rule on dietary supplements containing ephedrine alkaloids and making available certain documents to update the administrative docket of that proposal.

DATES: Submit written comments by May 18, 2000.

ADDRESSES: Submit written comments on the information in this docket to the Dockets Management Branch, Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Marquita B. Steadman, Center for Food Safety and Applied Nutrition (CFSAN) (HFS–007), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, 301–827–6733. A contact person for the public forum will be announced in the near future.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 4, 1997 (62 FR 30678), FDA published a proposed rule on dietary supplements containing ephedrine alkaloids (hereinafter referred to as ''the ephedrine alkaloids proposal''). FDA proposed to establish a finding that a dietary supplement is adulterated if it contains 8 milligrams (mg) or more of ephedrine alkaloids per serving within a 6-hour period or a total daily intake of 24 mg or more of ephedrine alkaloids (''dosing level'' or ''dietary ingredient level''), and to require the label of such supplement state that the product is not to be used for more than 7 days (''duration of use limit''). In addition, FDA proposed to require certain warning statements, and to affect other aspects of labeling for such products. FDA proposed this action after receiving over 800 adverse events associated with the use of dietary supplements that contained, or were suspected to contain, ephedrine alkaloids, and reviewing scientific literature and other data concerning ephedrine alkaloids. FDA received approximately 14,775 comments in response to the ephedrine alkaloids proposal.

The House Committee on Science requested that the Government Accounting Office (GAO) examine the scientific bases for the ephedrine alkaloids proposal, and the agency's adherence to the regulatory analysis requirements for Federal rulemaking. On August 4, 1999, GAO publicly released its report entitled ''Dietary Supplements: Uncertainties in Analyses Underlying FDA's Proposed Rule on Ephedrine Alkaloids.'' A copy of this report is available in Docket No. 95N–0304.

Generally, the GAO concluded that FDA was justified in determining that the number of AER's relating to dietary supplements containing ephedrine alkaloids warranted the agency's attention and consideration of steps to address safety issues. In addition, the GAO concluded that the available scientific information suggests that the use of products containing synthetic ephedrine alkaloids can result in adverse experiences for some individuals. However, GAO expressed concerns about the use of the adverse events in supporting the proposed dosing level and duration of use limit, and concluded that the agency needed additional evidence to support these restrictions.

GAO also concluded that FDA's economic analysis contained the basic elements expected in a Federal agency's cost-benefit analysis and that the ephedrine alkaloids proposal complied with regulatory flexibility analysis requirements under the Regulatory Flexibility Act. GAO noted, however, that FDA's cost-benefit analysis was not always transparent regarding why certain key assumptions were made, the degree of uncertainty involved in those assumptions, or the effect that alternative assumptions would have had on the agency's estimates of the costs and benefits of the proposed action.

GAO recommended that FDA ''provide stronger evidence on the relationship between the intake of dietary supplements containing ephedrine alkaloids and the occurrence of adverse reactions that support the proposed dosing level and duration of use limits.'' In addition, GAO recommended that FDA improve the transparency of its cost-benefit analysis in its final rulemaking.

Before the GAO report was released, FDA had already begun accumulating and evaluating data on additional adverse events reported to the agency since the publication of the ephedrine alkaloids proposal as well as initiating a process to obtain outside scientific input and review. Since publication of the ephedrine alkaloids proposal and following release of the GAO report, FDA has continued to receive reports of adverse events, conducted its own independent evaluations and analyses, and continued to seek input from outside experts on these issues. FDA is now making available new information, the vast majority of which it has received since publication of the ephedrine alkaloids proposal.

II. New Information—Docket No. 00N–1200

To gain a better perspective on the significance of the public health concern and public health problems associated with the current use of dietary supplements containing ephedrine alkaloids, CFSAN applied its available resources towards conducting

an analysis of 140 AER's with a report date (date the adverse event form was completed) period of June 1, 1997, through March 31, 1999, (''New Case Series''). CFSAN chose the June 1, 1997, date because it was close to the publication date of FDA's ephedrine alkaloids proposal. CFSAN chose the March 31, 1999, cut-off date so that it could have a closed set of data to analyze and prepare for public release. These adverse events, reported during the time period June 1, 1997, through March 31, 1999, had not previously received a comprehensive clinical analysis by the agency. All AER's received by FDA within that timeframe were included in the analysis. CFSAN's evaluation included an initial screening to determine whether the quality of the evidence available was sufficient to support a more comprehensive clinical evaluation of those adverse events that met the screening criteria. These criteria are identified in a document entitled ''Assessment of Public Health Risks Associated with the Use of Ephedrine Alkaloid-Containing Dietary Supplements'' which is available in this docket. (See section IV of this document for a more detailed outline of this document.) CFSAN used only those adverse events judged to have sufficient information for further evaluation. Following the initial screening of these reports, eight were eliminated from further review. The remaining 132 cases were subjected to an in-depth clinical review. CFSAN has also obtained a clinical review of 139 of the 140 adverse events in the New Case Series from FDA's Center for Drug Evaluation and Research (CDER). (One of the adverse events in the New Case Series reviewed by CFSAN was not identified as being within the designated time period for the New Case Series until after CDER's review began.)

As part of FDA's overall evaluation, it also contracted with outside scientific and clinical experts to obtain additional evaluation on dietary supplements containing ephedrine alkaloids, including the same 139 adverse events that CDER reviewed. FDA also conducted a market review covering August 1999 through March 2000 to determine whether there have been changes in the marketplace, including identification of new products containing ephedrine alkaloids.

A listing of this new information is provided in section IV of this document.

III. Pre-case and Post-case Series

FDA has received additional new AER's that have not been placed in any docket, and fall outside of the New case series timeframe (e.g., June 1, 1997, through March 31, 1999). Of these adverse events, 14 were reported before May 31, 1997, (''Pre-case series''). Moreover, 119 were reported beginning from April 1, 1999, and received by FDA by December 31, 1999, with any additional followup information received by February 15, 2000 (''Post case series''). Neither FDA nor its outside experts have conducted a comprehensive clinical analysis of the AER's in the Pre-case and Post-case series. FDA is announcing the availability of the Pre-case and Post-case series in this document.

IV. Public Docket

FDA is establishing a new docket [Docket No. 00N–1200] and making available at the Dockets Management Branch (address above) for public inspection the following documents:

1. One hundred and Fourty redacted AER's with a report date during the time period June 1, 1997, through March 31, 1999, (''New Case Series'') associated with dietary supplement products that were known or suspected to contain ephedrine alkaloids.

2. A document entitled ''Assessment of Public Health Risks Associated with the Use of Ephedrine Alkaloid-containing Dietary Supplements,'' which includes the following sections:

a. Section One: Overview/Background

b. Section Two: CFSAN's Evaluation of New Case Series. This evaluation included an initial screening to determine whether the quality of evidence available was sufficient to support a more comprehensive clinical evaluation. CFSAN subjected only those adverse events judged to have sufficient information to further evaluation. Following the initial screening of these reports, 8 of the 140 were eliminated from further review. The clinical evaluation of the remaining reports resulted in the following classifications: (1) Adequate information to evaluate the relationship of product use to the adverse event and (2) insufficient data to further assess clinically or nonsupportive of a relationship between dietary supplements containing ephedrine alkaloids and the adverse event. Each of the reports with adequate information was reviewed and classified further into ''attributable'' and ''supporting''. The criteria for ''attributable'' and ''supporting'' are explained in the document.

c. Section Three: CFSAN's Review of the Published Literature on the Physiological, Pharmacological and Toxic Effects of Ephedrine Alkaloids.

d. Section Four: Bibliography of Scientific References/citations for documents a through c above.

e. Section Five: Appendices to Section Two above.

3. FDA's Center for Drug Evaluation and Research's review of AER's associated with dietary supplements containing ephedrine alkaloids, including a clinical review of 139 of the adverse events evaluated in CFSAN's New Case Series.

4. Reports from Outside Consultants concerning the following clinical/scientific reviews:

a. Raymond Woosley, M.D., Ph.D., Review of 139 of the adverse events in the New Case Series and the likelihood of the events being associated with ephedrine alkaloids.

b. Neal Benowitz, M.D., Review of 139 of the adverse events in the New Case Series and the likelihood of the events being associated with ephedrine alkaloids.

c. Andrew L. Stoll, M.D., Review of specific neuropsychiatrically-related adverse events from the New Case Series and the likelihood of the events being associated with ephedrine alkaloids.

d. George A. Ricaurte, M.D., Ph.D., Review of specific nerologically-related adverse events from the New Case Series and the likelihood of the events being associated with ephedrine alkaloids.

e. Ka Kit Paul Hui, M.D., Opinion on the use of ephedra by practitioners trained in Traditional Chinese Medicine, including conditions, dosages, interactions, and duration of use.

f. Mario Inchiosa, Ph.D., Scientific literature search and evaluation of the pharmacokinetics of naturally-occurring ephedrine alkaloids and synthetic ephedrine alkaloids.

g. Alexander Walker, M.D., Dr. P.H., Statement concerning the likely reporting rate of adverse events involving dietary supplements.

5. Fourteen redacted AER's with a report date before May 31, 1997, which have not been placed in any docket (''Pre-case series'') concerning dietary supplements containing ephedrine alkaloids. These AER's have not received an extensive clinical analysis by FDA.

6. One hundred and nineteen redacted adverse events with report dates beginning April 1, 1999, and received by FDA by December 31, 1999, with followup information received by February 15, 2000 (''Post-case series'') concerning dietary supplements containing ephedrine alkaloids. These

AER's have not received an extensive clinical analysis by FDA.

7. CFSAN Market Review—FDA review covering the period August 1999 through March 2000 to determine whether there have been changes in the types of ephedrine alkaloid containing dietary supplement products available in the marketplace since the agency's review in 1995–1996.

Several parties have informed the agency that, since the issuance of the ephedrine alkaloids proposal, there is new usage data, and new scientific information, including clinical trials sponsored by manufacturers, that supports the safety of dietary supplements containing ephedrine alkaloids. FDA has not been provided this information to date and encourages interested persons to submit this information and any other information the submitter believes is relevant to assessing the safety of dietary supplements containing ephedrine alkaloids. FDA encourages interested persons to submit this information to this docket by May 18, 2000, so that it will be available to the public and the agency for review.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the availability. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. These documents and any received comments may be seen by interested persons at the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Public Forum

A public forum for discussion of the documents being made available in this document will be held at a date and location to be announced. A contact person for the public forum will also be announced.

Written comments received in response to this document, and participation at the public forum, will assist the agency in determining appropriate next steps regarding dietary supplements containing ephedrine alkaloids.

Dated: March 30, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–8283 Filed 3–31–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1119]

Guidance for Industry on Street Drug Alternatives; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled ''Street Drug Alternatives.'' The guidance is intended to inform industry and the public that FDA considers any product that is promoted as a street drug alternative to be an unapproved new drug and a misbranded drug in violation of two sections of the Federal Food, Drug, and Cosmetic Act (the act). Such violations may result in regulatory action, including seizure and injunction.

DATES: Submit written comments on agency guidances at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of this guidance to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: William Nychis, Center for Drug Evaluation and Research (HFD–310), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7363.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled ''Street Drug Alternatives.'' FDA is issuing this guidance in response to the proliferation of various products that are being manufactured, marketed, or distributed as alternatives to illicit street drugs. FDA is concerned that these products are being abused by individuals, including minors, and pose a potential threat to the public health.

These street drug alternatives are generally labeled as containing botanicals, and some are also labeled as containing other ingredients, such as vitamins, minerals, or amino acids. They are marketed under a variety of brand names with claims implying that these products mimic the effects of controlled substances. These products are intended to be used for recreational purposes to effect psychological states.

This guidance is intended to inform industry and the public that FDA considers any product that is promoted as a street drug alternative to be an unapproved new drug and a misbranded drug in violation of sections 505 and 502 of the act (21 U.S.C. 355 and 352). Such violations may result in regulatory action, including seizure and injunction.

Moreover, FDA is also aware that some of these street drug alternatives are being promoted as dietary supplements. FDA does not consider street drug alternatives to be dietary supplements because they are not intended to supplement the diet.

This Level 1 guidance is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). The guidance is being implemented immediately without prior public comment because of the potential hazard to the public health. The guidance represents the agency's current thinking on street drug alternatives. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 28, 2000.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 00–8110 Filed 3–31–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Alcohol Prevalence and Gene/Environment Interactions in Native American Tribes (a 10 Tribe Study)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Alcohol Prevalence and Gene/Environment Interactions in Native American Tribes (a 10 Tribe Study). *Type of Information Collection Request:* Extension. *Need and Use of Information Collection*: The Ten Tribe Study is being conducted to collect psychiatric and personal data from tribes with different rates of alcoholism. This data will be analyzed to determine, if possible, why tribes with similar lifestyles have different rates of alcoholism and alcohol abuse. Specifically, the information gathered during this study will be used to: (1) determine prevalence rates of alcoholism in 10 demographically sampled Native American tribes using structured or semi-structured interviews to rigorously diagnose alcoholism; (2) systematically diagnose conditions which are often comorbid with alcoholism including drug abuse, depression, and antisocial personality; (3) address crucial antecedents and consequences of alcoholism and environmental issues in alcohol vulnerability such as post-traumatic stress, violence, acculturation, and child abuse; and (4) investigate genetic vulnerability factors for tribal populations with high, moderate, and low alcoholism prevalence. This study has been ongoing for three years and is to be extended for three additional years. *Frequency of Response*: Once per respondent. *Affected Public*: Individuals. *Type of Respondents*: Adults. The annual reporting burden is as follows: *Estimated Number of Respondents*: 1,800; *Estimated Number of Responses per Respondent*: 1; *Average Burden Hours Per Response*: 4.0; and *Estimated Total Annual Burden Hours Requested*: 7,200. There are no Costs to Respondents to report. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request For Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the extension of this collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Way 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.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Ms. Ronni Nelson, Laboratory of Neurogenetics, Division of Intramural Clinical and Biological Research, NIAAA, NIH, 12420 Parklawn Drive, Suite 451, Rockville, Maryland 20852 or E-mail your request, including your address to: rn46h@nih.gov. Ms. Nelson can be contacted by telephone at 301–443–5781.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before June 2, 2000.

Dated: March 28, 2000.

Stephen Long,

Executive Officer, NIAAA.

[FR Doc. 00–8103 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute Submission for OMB Review; Comment Request Women's Health Initiative Observation Study

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Director, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 7, 1999, pages 48661–48662 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised or implemented on or after October 1, 1995 unless it displays a current valid OMB control number.

Proposed Collection: Title: Women's Health Initiative (WHI) Observational Study. *Type of Information Collection Request:* REVISION: OBM No. 0925—0414, Expiration date: 06/30/2000. *Need and Use of Information Collection:* This study will be used by the NIH to evaluate risk factors for chronic disease among older women by developing and following a large cohort of postmenopausal women and relating subsequent disease development to baseline assessments of historical, physical, psychosocial, and physiologic characteristics. In addition, the observational study will complement the clinical trial (which has received clinical exemption) and provide additional information on the common causes of frailty, disability and death for postmenopausal women, namely, coronary heart disease, breast and colorectal cancer, and osteoporotic fractures. *Frequency of Response:* On occasion. *Affected Public:* Individuals and physicians. *Type of Respondents:* Women, next-of-kin, and physician's office staff. The annual reporting burden is as follows:

Type of respondents	Estimated number of respondents	Estimated number of responses per respondents	Average burden hours per response	Estimated total annual burden hours requested
OS Participants	82,044	.96876	.4557	36,219

Type of respondents	Estimated number of respondents	Estimated number of responses per respondents	Average burden hours per response	Estimated total annual burden hours requested
Next-of-kin	2,741	1	.0835	229
Physician's Office Staff	226	1	.0835	19
Total				36,467

The annualized cost burden to respondents is estimated at $365,428. There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility and clarity of the information to be collected; and (4) Minimize the burden of the collection of 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 permitting electronic submission of responses.

DIRECT COMMENTS TO OMB: Written comments and/or suggestions regarding item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to: The Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plan and instruments, contact: Dr. Linda Pottern, Project Officer, Women's Health Initiative Program Office, 6705 Rockledge Drive, 1 Rockledge Centre, Suite 300, MSC 7966, Bethesda, MD 20892–7966, or call (301) 402–2900 or E-Mail your request, including your address to: Linda__Pottern@nih.gov

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before June 2, 2000.

Dated: March 20, 2000.

Jacques E. Rossouw,

Acting Director, Women's Health Initiative, NHLBI.

[FR Doc. 00–8104 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Invention; Availability for Licensing: ''Therapeutic Method to Treat Cancer and Define Cellular Regulatory Processes—Transcription Factor Decoy and Tumor Growth Factor''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

ADDRESSES: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting J. R. Dixon, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 206; fax 301/402–0220; E-Mail: jd212g@NIH.GOV). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

SUPPLEMENTARY INFORMATION: *Invention Title:* ''Transcription Factor Decoy and Tumor Growth Inhibitor''.

Inventors: Dr. Yoon S. Cho-Chung (NCI).

USPA SN: 08/977,643 [= DHHS Ref. No. E–192–97/0]—Filed with the U.S.P.T.O. on November 24, 1997.

Technology: Alteration of gene transcription by inhibition of specific transcriptional regulatory proteins has important therapeutic potential. Synthetic double-stranded phosphorothioate oligonucleotides with high affinity for a target transcription factor can be introduced into cells as decoy cis-elements to bind the factors and alter gene expression. The CRE (cyclic AMP response element)-transcription factor complex is a pleiotropic activator that participates in the induction of a wide variety of cellular and viral genes. Because the CRE cis-element, TGACGTCA, is palindromic, a synthetic single-stranded oligonucleotide composed of the CRE sequence self-hybridizes to form a duplex/hairpin. The CRE-palindromic oligonucleotide can penetrate into cells, compete with CRE enhancers for binding transcription factors, and specifically interfere with CRE- and AP-1-directed transcription *in vivo.* These oligonucleotides restrained tumor cell proliferation, without affecting the growth of noncancerous cells. This decoy oligonucleotide approach offers great promise as a tool for defining cellular regulatory processes and treating cancer and other diseases. [see J. Biol. Chem. 274, 1573–1580 (1999); online at *http://www.jbc.org/*]

The above mentioned Invention is available, including any available foreign intellectual property rights, for licensing.

Dated: March 24, 2000.

Jack Spiegel,

Director, Division of Technology Development & Transfer, Office of Technology Transfer

[FR Doc. 00–8106 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Opportunity for Licensing: Adenovirus Mediated Transfer of Genes

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH), Public Health Service (PHS), Department of Health and Human Services (DHHS), seeks a licensee(s) to develop gene therapy-based therapeutics that would be effective in the treatment of a variety of disease states, particularly via transfer of specific genes to the lung. The inventors have developed adenoviral

vectors and pharmaceutical compositions comprising (a) a replication defective adenovirus comprising a deletion in the E1A, E1B and E3 regions and further comprising a DNA segment encoding a specific protein of interest operatively linked to a promoter and (b) a pharmaceutically acceptable carrier for said vector. Examples of proteins of interest would include, but not be necessarily limited to, CFTR and α1-antitrypsin.

The NIH seeks licensee(s) who, in accordance with requirements and regulations governing the licensing of government-owned inventions (37 CFR 404), has the most meritorious plan for the development of a therapeutic agent(s) to meet the needs of the public and with the best terms for the government. NIH intends to grant the selected licensee(s) a world-wide royalty-bearing license(s) to practice the inventions embodied in U.S. Patent 6,013,638 entitled ''Adenovirus Comprising Deletions on the E1A, E1B and E3 Regions for Transfer of Genes to the Lung'' U.S. Patent Application S/N 09/364,839 entitled ''Adenovirus-Mediated Transfer of Genes to the Lung''; U.S. Patent Application S/N 09/307,141 entitled ''Adenovirus-Mediated Transfer of Genes to the Lung'' and U.S. Patent Application S/N 08/442,262 entitled ''Replication Deficient Recombinant Adenovirus Vector''. The United States of America is an assignee for the patent rights in these inventions.

ADDRESSES: Licensing information, a copy of the U.S. patent or applications referenced to above or a copy of the NIH License Application may be obtained by contacting Richard U. Rodriguez, M.B.A., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 287; fax 301/402–0220; and E-mail rr154z@nih.gov). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

SUPPLEMENTARY INFORMATION: One of the hurdles to overcome in most forms of somatic gene therapy is the specific delivery of a therapeutic gene, encoding a therapeutic protein, to the organ manifesting the disease. In the case of the lung, a functional gene can be delivered directly to the respiratory epithelium by means of tracheal installation. One serious disadvantage with this approach is encountered with the use of vectors (such as retroviruses) that require proliferation of the target cells for expression of the newly transferred gene because only a small proportion of alveolar and airway epithelial cells go through the proliferative cycle in one day and because a large proportion of these cells are terminally differentiated. Use of the claimed recombinant adenoviral vector to transfer a gene to the respiratory epithelium *in vivo* circumvents the problem of slow target-cell proliferation. Other advantages would include: rare recombination events; no known associations of human malignancies with adenoviral infections despite common human infection with adenoviruses; the adenovirus genome can be manipulated to accommodate foreign genes expressing proteins ranging in size from small peptides up to a peptide of 7.0 to 7.5 kB in length; and live adenovirus has been safely used as a human vaccine.

Dated: March 24, 2000.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 00–8107 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Advisory Committee to the Director, National Cancer Institute.

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: Advisory Committee to the Director, National Cancer Institute.

Date: April 24, 2000.

Time: 11:30 AM to 1:30 PM.

Agenda: To discuss the Colorectal Cancer Progress Review Group Report.

Place: National Institutes of Health, National Cancer Institute, Building 31, Room 11A03, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Susan J. Waldrop, Executive Secretary, National Institutes of Health, National Cancer Institute, Office of Science Policy, Bethesda, MD 20892, 301/496–1458.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research, 93.397, Cancer Centers Support; 93.398; Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 24, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8091 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of 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 meeting of the Director's Consumer Liaison Group.

The meeting will be open to the public as indicated below, 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.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(6) and 552b(c)(9)(B), Title 5 U.S.C., as amended. The discussions could reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and the premature disclosure of discussions related to personnel and programmatic issues would likely to significantly frustrate the subsequent implementation of recommendations.

Name of Committee: Director's Consumer Liaison Group.

Date: April 17–18, 2000.

Open: April 17, 2000, 8:30 AM to 5:00 PM.

Agenda: NCI Director's Report; Status of the NCI Communications Reorganization; Clinical Trial System; Accessibility and appropriateness of NCI services and resources.

Place: National Institutes of Health, Natcher Conference Center, Conference Room D, Bethesda, MD 20892.

Closed: April 18, 2000, 8:30 AM to 4:00 PM.

Agenda: To discuss confidential administrative and personnel issues related to membership and functioning of the DCLG.

Place: National Institutes of Health, Natcher Conference Center, Conference Room D, Bethesda, MD 20892.

Contact Person: Elaine Lee, Acting Executive Secretary, Office of Liaison

Activities, National Institutes of Health, National Cancer Institute, Federal Building 6C10, Bethesda, MD 20892, (301) 594–3194.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 22, 2000.

LaVerne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8100 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 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 Cancer Institute Special Emphasis Panel, SBIR Topic 179—Encoding Surgical Pathology Data into Standard Nomenclature within XML.

Date: April 6, 2000.

Time: 1:00 PM to 5:00 PM.

Agenda: To review and evaluate contract proposals.

Place: Executive Plaza North, 6130 Executive Boulevard, Conference Room E, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Kirt Vener, Branch Chief, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8072, Bethesda, MD 20892, 301/496–7174.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8101 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; 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 Human Genome Research Institute Initial Review Group, Ethical, Legal, Social Implications Review Committee.

Date: March 29, 2000.

Time: 8:30 am to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Rudy O. Pozzatti, PhD., Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

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. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: March 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8097 Filed 3–31–00; 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 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 National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, 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.

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 Advisory Mental Health Council.

Date: May 4–5, 2000.

Closed: May 4, 2000, 10:30 am to recess.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892.

Open: May 5, 2000, 8:30 am to adjournment.

Agenda: Presentation of NIMH Director's Report and discussion of NIMH program and policy issues.

Place: Neuroscience Center, National Institutes of Health; 6001 Executive Blvd., Bethesda, Md 20892.

Contact Person: Jane A. Steinberg, PHD, Director, Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–5047.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clincians, and Research Scientist Award;

93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 24, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8093 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical 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 General Medical Sciences Special Emphasis Panel Large-Scale Collaborative Project Awards.

Date: April 3, 2000.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Helen R. Sunshine, PHD, Chief, Office of Scientific Review, National Institute of General Medical Sciences, NIH Natcher Building, Room 1AS–13, Bethesda, MD 20892, 301–594–2881.

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 General Medical Sciences Special Emphasis Panel Large-Scale Collaborative Project Awards.

Date: April 12, 2000.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Helen R. Sunshine, PHD, Chief, Office of Scientific Review, National Institute of General Medical Sciences, NIH Natcher Building, Room 1AS–13, Bethesda, MD 20892, 301–594–2881.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel Large-Scale Collaborative Project Awards.

Date: April 25, 2000.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Helen R. Sunshine, PHD, Chief, Office of Scientific Review, National Institute of General Medical Sciences, NIH Natcher Building, Room 1AS–13, Bethesda, MD 20892, 301–594–2881.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Development Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8095 Filed 3–31–00; 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 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: March 31, 2000.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael J. Moody, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–3367.

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 for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: March 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8098 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical 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 General Medical Sciences Special Emphasis Panel, Molecular Pharmacology.

Date: March 29–31, 2000.

Time: 8 pm to 12 pm.

Agenda: To review and evaluate grant applications.

Place: The Inn at Penn Hotel, 3600 Sanson Street, Philadelphia, PA 19104.

Contact Person: Arthur L. Zachary, Phd, Scientific Review Administrator, Office of Scientific Review, NIGMS, Natcher Building, Room 1AS–19, Bethesda, MD 20892, (301) 594–2886.

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 General Medical Sciences Special Emphasis Panel, Molecular Pharmacology.

Date: April 3–5, 2000.

Time: 8:00 PM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: Lyden Gardens Hotel, 215 E. 64th Street, New York, NY 10021.

Contact Person: Arthur L. Zachary, Phd, Scientific Review Administrator, Office of Scientific Review, NIGMS, Natcher Building, Room 1AS–19, Bethesda, MD 20892, (301) 594–2886.

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. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8099 Filed 3–31–00; 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: April 10, 2000.

Time: 11:00 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sooja K. Kim, PHD, Chief, Nutritional and Metabolic Sciences Initial Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, (301) 435–1780.

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: April 11, 2000.

Time: 8:30 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn,1775 Rockville Pike, Rockville, Md 20852.

Contact Person: Joe Marwah, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, (301) 435–1253.

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: April 12, 2000.

Time: 1:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Zakir Bengali, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892, (301) 435–1742.

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: April 13, 2000.

Time: 2:30 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Martin Slater, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, (301) 435–1149.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 13, 2000.

Time: 4:00 PM to 7:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcia Litwack, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 14, 2000.

Time: 11:00 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Larry Pinkus, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 14, 2000.

Time: 2:00 PM to 2:45 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Larry Pinkus, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802 Bethesda, MD 20892, (301) 435–1214.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: April 14, 2000.

Time: 3:05 AM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Larry Pinkus, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.

(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: March 24, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8092 Filed 3–31–00; 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: March 27, 2000.
Time: 3:00 pm to 4:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Timothy J. Henry, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

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: March 28, 2000.
Time: 2:00 pm to 3:30 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Timothy J. Henry, PHD. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

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: April 3, 2000.
Time: 4:00 pm to 7:00 pm.
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.

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, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 24, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8094 Filed 3–31–00; 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 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: Center for Scientific Review Special Emphasis Panel.
Date: March 24, 2000.
Time: 3 pm to 4 pm.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Syed Quadri, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892, (301) 435–1211.

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, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 22, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8096 Filed 3–31–00; 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: April 4, 2000.
Time: 2:30 PM to 3:30 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Martin Slater, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, (301) 435–1149.

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: April 5, 2000.
Time: 3:00 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: George M. Barnas, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–0696.

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: April 6, 2000.

Time: 11:00 AM to 1:00 PM.
Agenda: To provide concept review of proposed grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7848, Bethesda, MD 20892, (301) 435–0681.
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: April 6, 2000.
Time: 1:00 PM to 2:00 PM.
Agenda: To provide concept review of proposed grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference call).
Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7848, Bethesda, MD 20892, (301) 435–0681.
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: April 7, 2000.
Time: 8:00 AM to 9:00 AM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David M. Monsees, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3199, MSC 7770, Bethesda, MD 20892, (301) 435–0684, monseesd@drg.nih.gov.
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: April 7, 2000.
Time: 8:30 AM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Ave, Chase Room, Chevy Chase, MD 20815.
Contact Person: Michael A. Lang, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892, (301) 435–1265.
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: April 7, 2000.
Time: 9:00 AM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892.
Contact Person: David M. Monsees, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3199, MSC 7770, Bethesda, MD 20892, (301) 435–0684, monseesd@drg.nih.gov.
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: April 10, 2000.
Time: 1:00 PM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 28092, (Telephone Conference Call).
Contact Person: Martin Slater, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, (301) 435–1149.
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: April 11, 2000.
Time: 8:30 AM to 6:00 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Bernard F. Driscoll, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892, (301) 435–1242.
Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 11, 2000.
Time: 11:30 AM to 1:30 PM.
Agenda: To provide concept review of proposed grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 28092, (Telephone Conference Call).
Contact Person: Mary Sue Krause, MED, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3168, MSC 7848, Bethesda, MD 20892, (301) 435–0681.
Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 11, 2000.
Time: 1:00 PM to 2:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 28092, (Telephone Conference Call).
Contact Person: Ranga V. Srinivas, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@csr.nih.gov.
Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 11, 2000.
Time: 1:00 PM to 2:45 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Anthony C. Chung, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7802, Bethesda, MD 20892, (301) 435–1850.
Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 11, 2000.
Time: 1:30 PM to 4:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Richard Marcus, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, (301) 435–1245, richard.marcus@nih.gov.
Name of Committee: Center for Scientific Review Special Emphasis Panel, VISB Study Section (02).
Date: April 12, 2000.
Time: 8:00 AM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
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: April 12, 2000.
Time: 1:30 PM to 3:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ranga V. Srinivas, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@csr.nih.gov.
Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: April 12, 2000.
Time: 2:00 PM to 5:00 PM.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Marcia Litwack, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

(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: March 23, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–8102 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Development of Instruments for Diagnostic and Surgical Applications Based on Spectroscopic and Hyperspectral Imaging Techniques

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 (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Application Serial No. 09/182,898, entitled ''Multispectral/Hyperspectral Medical Instrument'', filed October 30, 1998; U.S. Patent Application Serial No. 09/389,342 entitled ''Infrared Balloon Probe'' filed September 2, 1999, and US Provisional Patent Application SN 60/142,068, entitled ''Dual Modality Imaging Apparatus'', filed July 2, 1999, to HyperMed, Inc. having a place of business in Chestnut Hill, Massachusetts. The United States of America is an assignee to the patent rights of these inventions.

The contemplated exclusive license may be limited to the development of diagnostic instruments, devices, compositions and methods, to be used for diagnostics based on the spectral differentiation between healthy and unhealthy/damaged tissue.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before July 3, 2000 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Uri Reichman, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, ext. 240; Facsimile: (301) 402–0220; E-mail: reichmau@od.nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent application.

SUPPLEMENTARY INFORMATION: The three patent applications describe medical imaging technologies and related instrumentation and their application for surgical ''real time'' diagnostics. The inventions are based on the difference of spectral images between normal and damaged (*e.g.* ischemic or cancerous) tissues due to chemical differences between them. Patent Application 09/182,898 describes a surgical and diagnostic camera, based on visible and near infrared hyperspectral imaging technique. This instrument can be used during heart surgery to distinguish between ischemic and normal tissues, or for cancer surgery applications to determine tumor margins during resective surgery. Patent Application 09/389,342 describes a device for use in the field of medical endoscopy. It is a fiber-optics imaging device based on a balloon probe that has been adapted to obtain spectroscopic information in the infrared spectral region. It can be used, for example, for the determination of the chemical composition of arterial plaques in situ. Patent application 60/142,068 describes a Dual Modality Imaging Apparatus and method comprising means of fusing thermal image and hyperspectral data. While the hyperspectral data provides information about tissue status and viability, thermal imaging provides information related to blood flow.

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. The prospective exclusive license may be granted unless, within 90 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 522.

Dated: March 24, 2000.

Jack Spiege,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer.

[FR Doc. 00–8105 Filed 3–31–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Historical Analysis of Individual Indian Money Accounts

AGENCY: Bureau of Indian Affairs (BIA), Interior.

ACTION: Notice of public meetings and opportunity for comment.

SUMMARY: The Department of the Interior manages property it holds in trust for individual Indians and maintains revenue, in Individual Indian Monies (IIM) accounts, that accrues to individuals holding an interest in trust lands. The Department recognizes that as a result of past weaknesses in its accounting and information systems, IIM account holders have not always had sufficient information to be able to ascertain whether income from their trust assets was properly credited, maintained, and distributed to and from their IIM accounts. As directed by Congress, the Department is continuing development of a reconciliation process to evaluate the reliability of past account activity. This notice initiates an information gathering process with IIM account beneficiaries, and the public, to comply with Congressional directives to determine the most reasonable methods for providing accountholders with information to evaluate their accounts and to determine whether there are discrepancies due to past management practices.

DATES: Written comments will be collected until June 30, 2000. The Department will also conduct public meetings to collect views, as outlined in this notice, at the following dates and locations:

Navajo Region

Western Agency

April 24, 2000; 10:00 A.M.; Western Agency, BIA, Building #407, Warrior Drive, Tuba City, Arizona

Chinle Agency

April 25, 2000; 10:00 A.M.; Chinle Agency, BIA, Bldg #136, Navajo Route 7, Chinle, Arizona

Fort Defiance Agency

April 26, 2000; 10:00 AM; Fort Defiance Agency, BIA, Bldg #40, Blue Canyon Road, Fort Defiance, Arizona

Shiprock Agency

April 27, 2000; 10:00 AM; Ship Rock Agency, BIA, N Highway 666, Shiprock, New Mexico

Eastern Navajo Agency

April 28, 2000; 10:00 AM; Eastern Navajo Agency, BIA, Bldg #222, Navajo Route 9, Crownpoint, New Mexico

Western Region

Colorado River Agency

April 25, 2000; 5:00 PM; Colorado River Agency Conference Room, Agency Road, Building 3, Parker, Arizona

Fort Apache Agency

April 25, 2000; 9:00 AM; Fort Apache Agency Annex Conference Room, State Route 73, West Elm Street, Whiteriver, Arizona

Fort Yuma Agency

April 29, 2000; 2:00 PM; Cocopah Tribal Chambers, County 15, Avenue G, Somerton, Arizona

Fort Yuma Agency

April 29, 2000; 10:00 AM; Quechan Community Center, 604 Picacho Road, Winterhaven, California

Hopi Agency

April 27, 2000; 10:00 AM; Hopi Agency Conference Room, Highway 264, One Main Street, Keams Canyon, Arizona

Papago Agency

April 29, 2000; 9:00 AM; Tohono O'odham Legislative Council, Main Street, (Downtown Sells), South of State Route 86, Sells Arizona

Pima Agency

May 3, 2000; 9:00 AM; Gila River Sprung (White Tent), 5550 W. Wild Horse Pass (Casino) I–10 and Maricopa Road, Chandler, Arizona

Salt River Agency

May 6, 2000; 10:00 AM; Salt River Community Building, 1880 North Longmore, Scottsdale, Arizona

San Carlos Agency

May 3, 2000; 9:00 AM; Apache Gold Casino, Highway 70—5 miles east of Globe, Globe, Arizona

Truxton Agency

April 27, 2000; 1:00 PM; Truxton Canon Field Office Conference Room, 13067 East Highway 66, Valentine, Arizona

Eastern & Western Nevada Agencies

May 6, 2000; 9:00 AM; Atlantis Hotel, 3500 S Virginia Street, Reno, Nevada

Southern Paiute Field Station

April 24, 2000; 8:00 AM; Southern Paiute Field Office Conference Room, 180 North 200 E., Suite 111, St. George, Utah

Uintah & Ouray Agency

May 2, 2000; 9:00 AM; Ute Tribal Auditorium, 988 South 7500 E., Fort Duchesne, Utah

Rocky Mountain Region

Blackfeet Agency

May 1, 2000; 9:00 AM; (A–F)
May 2, 2000; 9:00 AM; (G–N)
May 3, 2000; 9:00 AM; (O–T)
May 4, 2000; 9:00 AM; (U–Z); Blackfeet Agency, BIA, 531 SE Boundary St, Browning, MT

Crow Agency

May 2, 2000; 10:00 AM; Crow Agency (Multi-Purpose Building), Frontage/ Fairground Road, Crow Agency, MT

Fort Belknap Agency

April 25, 2000; 1:00 PM; Ft. Belknap Agency (Fort Belknap Industries Bldg), Main Street/Airport Road, Fort Belknap, MT

Fort Peck Agency

May 4, 2000; 6:00 PM; Tribal Cultural Center, 211 Tribal Street, Poplar, MT

Northern Cheyenee Agency

April 26, 2000; 4:00 PM; Blessed Sacrament Catholic Church Basement, Cheynenne Ave., Lame Deer, MT

Wind River Agency

April 25, 2000; 9:00 AM; Rocky Mountain Hall Gymnasium, 15 Northfork Road, Fort Washakie, WY

Rocky Boy's Agency

May 3, 2000; 6:00 PM; Rocky Boy's Community Center, RR1 Box 542, Box Elder, MT

Northwest Region

Fort Hall Agency

May 4, 2000; 4:00 PM; Fort Hall Housing Authority Conference Room, 161 War Dance Circle, Fort Hall, ID

Colville Agency

May 6, 2000; 9:00 AM; Nespelem Community Center, Nespelem, WA

Flathead Agency

April 28, 2000; 9:00 AM; Tribal Council Chambers, Highway 93 West, Pablo, MT

Yakama Agency

May 3, 2000; 6:00 PM; Eagle Seelatsee Auditorium, Yakama Nation Headquarters Building, Fort Road, Toppenish, WA

Warm Springs Agency

April 26, 2000; 2:00 PM; Forestry Conference Room, Building #4430, Upper Dry Creek Road, Warm Springs, OR

Olympic Peninsula Agency

May 1, 2000; 1:00 PM; Nordic Inn—Convention Center, 1700 S. Boone, Aberdeen, WA

Metlakatla Field Office

May 1, 2000; 8:30 AM; Double Tree, 16500 S. Center Parkway, Seattle, WA

Puget Sound Agency

April 24, 2000; 1:00 PM; Cascadia Inn, 2800 Pacific Avenue, Everett, WA

Makah Field Office

May 1, 2000; 7:00 PM; Makah Community Hall, Neah Bay, WA

Umatilla Agency

May 4, 2000; 12:30 PM; Yellow Hawk Clinic, 73265 Confederated Way, Pendleton, OR

Northern Idaho Agency

May 9, 2000; 9:00 AM; Nez Perce Tribal Headquarters, Pineewau Community Building, Lapwai, ID

Taholah Field Office

April 26, 2000; 4:00 PM; Taholah Community Center, Taholah, WA

Spokane Agency

May 2, 2000; 5:00 PM; Spokane Tribal Community Center Gym, Wellpinit, WA

Northwest Regional Office

April 27, 2000; 9:00 AM; BIA Regional Headquarters, Main Auditorium, 911 N.E. 11th Avenue, Portland, OR

Southern Plains Region

Anadarko Agency

May 3, 2000; 9:00 AM; Anadarko High School Auditorium, U.S. Highway 62 & Warrior Drive, Anadarko, OK

Pawnee Agency

April 26, 2000; 9:00 AM; International Trade Center—OSU Campus Exhibit Hall, 105 Watkins Center, Stillwater, OK

Horton Agency

May 5, 2000; 10:00 AM; Horton Field Office Conference Room, Horton, KA

Concho Field Office

May 3, 2000; 1:00 PM; Redlands Community College Conference Center, 1300 South Country Club Road, El Reno, OK

Southern Plains Regional Office

April 27, 2000; 9:00 AM; Clarion Hotel on Meridian, 737 South Meridian, Oklahoma City, OK

Midwest Region

Great Lakes Agency

April 26, 2000; 5:00 PM; Northern Great Lakes Visitor Center, 2–88 County Trump 6, Ashland, WI

Michigan Agency

April 28, 2000; 1:00 PM; BIA Agency Office, 2901 Point 5 I–75 Business Spur, Sault Ste Marie, MI

Minnesota Agency

April 29, 2000; 1:00 PM; Palace Casino/Hotel, 6280 Upper Cass Frontage RD NW, Cass Lake, MN

Pacific Region

Southern California Agency

April 27, 2000; 10:00 AM; Best Western Escondido Hotel, 100 Seven Oaks Road, Escondido, CA

Northern California Agency

April 27, 2000; 10:00 AM; Golden Bear Casino, 156 Klamath Beach Road, Klamath, CA

Central California Agency

May 1, 2000; 10:00 AM; Heritage Hotel, 1280 Tribute Road, Sacramento, CA

Palm Springs Field Office

May 5, 2000; 10:00 AM; Spa Hotel and Casino, 100 N. Indian Canyon Drive, Palm Springs, CA

Eastern Oklahoma Regional Office

Talihina Agency

April 24, 2000; 1:00 PM; Talihina School Theater, 600 1st Street, Talihina, OK

Chickasaw Agency

April 25, 2000; 9:00 AM; Chicasaw Nation Bingo Hall, 1500 North Country Club Road, Ada, OK

Okmulgee Field Office

April 26, 2000; 9:30 AM; Creek Nation Complex, Former Elderly Citizens Cafeteria, Okmulgee, OK

Wewoka Agency

April 27, 2000; 9:00 AM; Mekusukey Mission Council House, Seminole, OK

Regional Office

May 1, 2000; 9:00 AM; Cherokee Nation Complex, Tribal Council Chambers, Tahlequah, OK

Osage Agency

May 2, 2000; 9:00 AM; American Legion Hall, 1449 W. Main Street, Pawhuska, OK

Miami Field Office

May 2, 2000; 6:00 PM; Miami Tribe of OK Cafeteria, 202 South 8 Tribes Trail Road, Miami, OK

Alaska Regional Office

Anchorage Agency

May 1, 2000; 9:00 AM; Anchorage Agency Conference Room, 1675 C Street, Anchorage, AK

Fairbanks Agency

May 2, 2000; 9:00 AM; Fairbanks Agency Conference Room, 1012 12th Ave., Fairbanks, AK

Great Plains Region

Cheyenne River Agency

April 27, 2000; 1:00 PM; Cheyenne Eagle Butte High School Auditorium, 2006 Main, Eagle Butte, SD

Crow Creek Agency

May 3, 2000; 1:00 PM; Crow Creek Sioux Tribal Gym, Highway 47, Fort Thompson, SD

Fort Berthold Agency

April 28, 2000; 1:00 PM; Civic Center, 103 Soo Place, New Town, ND

Fort Totten Agency

May 2, 2000; 11:00 AM; Fort Totten Community Center-Tribal Conference Rm, Main Street, Fort Totten, ND

Lower Brule Agency

April 26, 2000; 1:00 PM; Golden Buffalo Convention Center, 321 Crazy Horse St, Lower Brule, SD

Pine Ridge Agency

May 3, 2000; 10:00 AM; Billy Mills Hall, Highway 18 and 279, Pine Ridge, SD

Rosebud Agency

April 28, 2000; 1:00 PM; St. Thomas Hall, U.S. Highway 18, Mission, SD

Sisseton Agency

April 24, 2000; 10:00 AM; Community Gym, Veterans Memorial Drive, Agency Village, SD

Standing Rock Agency

May 4, 2000; 9:00 AM; Fort Yates High School Gym, U.S. Highway 1806, Fort Yates, ND

Turtle Mountain Agency

May 3, 2000; 1:00 PM; Turtle Mountain Casino—Sprung Building, Highway 5, Belcourt, ND

Winnebago Agency

May 3, 2000; 9:00 AM; Blackhawk Community Center, Highway 77, Winnebago, NE

May 3, 2000; 1:00 PM; Gilpin Building, Tribal Avenue, Macy, NE

May 4, 2000; 9:00 AM; Frazier Memorial Building, David Frazier Avenue, Sanatee, NE

Yankton Agency

April 25, 2000; 1:00 PM; Yankton Agency—Conference Room, 29775 South Main St, Wagner, SD

Eastern Region

Syracuse Field Office

April 29, 2000; 10:00 AM; Plummer Building, 3582 Center Rd, Salamanca, NY

Albuquerque Region

Northern Pueblos Agency

April 25, 2000; 10:00 AM; Northern Pueblos Agency Office, San Juan Pueblo, NM

Southern Ute Agency

May 3, 2000; 9:00 AM; Rolling Thunder Hall, 14826 Hwy 172 North, Ignacio, CA

Laguna Agency

May 3, 2000; 9:30 AM; Laguna Tribal Auditorium, I–40 West—Exit 114, Pueblo of Laguna, NM

Southern Pueblos Agency

May 3, 2000; 9:30 AM; Laguna Tribal Auditorium, I–40 West—Exit 114, Pueblo of Laguna, NM

Mescalero Agency

April 26, 2000; 10:00 AM; Carrizo Community Center, Carrizo Canyon Road, Mescalero, NM

Ute Mountain Ute Agency

April 24, 2000; 6:00 PM; Council Chambers, 125 Mike Washroad, Towaoc, CO

ADDRESSES: Written comments or suggestions about the processes that should be undertaken by the Department to meet the stated goals of this notice should be mailed to Bureau of Indian Affairs Office of American Indian Trust, Attention: Director, Loretta Tuell, 1849 C Street, NW, Mail Stop 2472–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Loretta Tuell, Dierector, Office of American Indian Trust, at the above address or by telephone at (202) 208–3338.

SUPPLEMENTARY INFORMATION:

I. Background

Note: Further background information, including historic information on IIM accounts, to aid comments on this notice will be available at these locations prior to the

scheduled meeting times. Please contact your preferred location for further.

Currently, approximately 11 million acres of land are administered in trust by the Secretary of the Interior for the benefit or more than 300,000 individual Indian beneficiaries. In 1997 Departmental auditors estimated approximately $300 million is generated annually from the management of the lands and passes through the IIM accounts. This is a significant expansion since the 1955 GAO Audit report which reported that in 1950 there were only 88,000 IIM accounts and in fiscal year 1955 approximately $66 million was handled within the IIM system. As outlined below, this dramatic growth in beneficiaries since the inception of the IIM system overburdened the existing accounting and distribution systems of the Department. By Congressional mandate, those systems are currently being modernized. However, the Department recognizes, as has the General Accounting Office, that it is not feasible or practicable to re-create past transactions with the same precision that the Department expects the new systems to provide when fully operational.

The Department's obligation to reconcile accounts was initially raised by Congress in the 1987 Supplemental Appropriations Act; and Congress has continued to oversee the development of various options to carry out this obligation. The American Indian Trust Fund Management Reform Act of 1994, 25 U.S.C. 162a. *et seq.,* & 4011, *et seq.,* (the Act or the 1994 Act), anticipates that the Bureau of Indian Affairs will complete a reconciliation of IIM accounts that provides account holders ''with a fair and accurate accounting'' of trust accounts. 25 U.S.C. 4043. The Act also required the Department account for fund balances and commence ''periodic, timely reconciliations to assure the accuracy of accounts.'' 25 U.S.C. 162a & 4011. The combined effect of these provisions is a requirement to develop a reconciliation process to determine the reliability of account balances. Pursuant to Congress' mandate in the Act, the Department has been designing and installing new accounting and trust management systems to modernize and improve the administration of IIM accounts. The Department believes the new systems and procedures will provide account holders with accurate information about current transactions that affect the balances of their account.

In 1887, Congress enacted the Indian General Allotment Act of 1887, 24 Stat. 388. The Allotment Act authorized the President to allot portions of reservation land to individual Indians. Title to the allotted land was to remain with the United States in trust for at least 25 years, after which it was to be conveyed in fee to the Indian beneficiary. The Allotment Act resulted in a loss of over 90 million acres of Indian-held land, primarily through the distribution to non-Indians of reservation lands remaining after allotment. Land also passed out of the hands of many Indian allottees who received fee title after 25 years through forced sales and the operation of state intestacy laws.

In 1934, Congress enacted the Indian Reorganization Act to protect (and enhance, when possible) the remaining land base of Indian tribes and their members and to permit the tribes to engage in self-government. *See* 25 U.S.C. 452. The Reorganization Act ended the practice of allotment and indefinitely extended the trust period for allotments that had already been made.

Under the Indian General Allotment Act of 1887, 24 Stat. 388, as amended, the Department of the Interior has managed land held in trust for individual Indians which often generates revenue for the beneficial owners. Generally, the primary mechanism for distributing money earned on allotted lands to the beneficiaries has been the IIM account. Historically, funds collected from the use of allotted lands were deposited in either the Federal Treasury or private banks. The funds were then divided based on each individual's proportional interest in the land generating the funds. Each individual's share of the funds was then placed in an IIM account, where it was held until distribution. With certain exceptions, the income was then distributed to the account holder (beneficiary) by a bonded disbursing officer. Funds also have been derived from per capita payments from the Indian Claims Commission, U.S. Court of Claims, and appropriations from legislative claims settlements and were distributed in a similar manner.

As interests in individual allotments continued to pass to subsequent generations, the number of owners of an individual allotment multiplied to the extent that some of the 40, 80, or 160 acre allotments which originally had one owner, today may have hundreds, or even more. While the amount of money generated has increased significantly since the inception of the IIM system, the number of beneficiary accounts has increased at a much greater rate. Today, many of these interests, having been passed through many generations, may entitle the owner to such a small portion of the proceeds generated that the beneficiary receives only pennies a year.

After the passage of the Act, the Department's Special Trustee conducted an examination of the IIM accounts in order to produce the Strategic Plan required by the Act. The Strategic Plan identified a number of problems with the historic management of the accounts. For example, since the record keeping and distribution of money was historically handled at the local level, multiple accounts could be formed if an individual either owned land in several areas or moved and was serviced at a different BIA office. Moreover, the Department's systems for managing IIM accounts have not kept pace with systems available to the private sector. These problems compounded each other and in the end overwhelmed the system such that the Department has been unable to provide many beneficiaries with basic information such as the source of funds, gains and losses, and periodic statements of account performance. As a result, many beneficiaries have been unable to fairly evaluate the management of their accounts to verify they are receiving their proper share of the income collected through the Department's management of their land interests.

In response to accountholder demands and Congressional findings that the systems must be overhauled, Congress enacted The American Indian Trust Fund Management Reform Act of 1994, PL 103–412, which prescribed specific information that would henceforth be required to be provided to individuals about the Department's management of their accounts. The Department believes the systems currently being developed and implemented will comply with the mandates of the Act.

In 1994 Congress, through passage of the Act, mandated a series of specific reforms to the ongoing management of Indian trust funds. *See* for example, 25 U.S.C. 162a. Once the systems are in place to carry out the duties specified in the Act on an ongoing basis, the Department will undertake a process, likely with the aid of the new systems, to provide required information on accounts back to October 25, 1994. As this will involve different requirements and levels of available information, this period will be addressed within this separate process, not necessarily the one that will be developed from this notice.

Although the requirements of the Act are primarily forward-looking, some of the prospective requirements such as periodic reconciliations and determining accurate cash balances necessarily require some level of

historical investigation. For example, Department audits have revealed discrepancies between the ledges of the Department and the Department of the Treasury, the Department will have to continue work on resolving these discrepancies. The implementation of new systems, in and of themselves, will not provide an analysis of transaction which took place before the passage of the Act. To address investigation of historical discrepancies, the Act built on the Department's process for historically reconciling Tribal Trust Fund accounts, requiring the Special Trustee to ''monitor'' the process and setting a deadline for its completion. The Act required the Secretary to submit a ''reconciliation report'' to the relevant congressional committees identifying a balance reconciled as of September 30, 1995 for each Tribal Trust Fund account, the methodology used, attestations of account holders as to whether they accepted the balances as reconciled and if not, a statement outlining efforts the Secretary will undertake to resolve the dispute. *See* 25 U.S.C. 4043 & 4044. Reconsilitation reports were submitted in January of 1996.

In contrast to the Tribal trust funds, for which Congress provided a framework for applying the Department's reconciliation process, the Act contains no such guidance for the reconciliation of IIM accounts. At the time the Act was enacted, the Department had not identified a satisfactory methodology for historical IIM reconciliation, given the availability and condition of the records and the high cost of gathering and analyzing relevant documents. The Act simply provided that an IIM reconciliation process would be ''monitored'' by the Special Trustee to ensure a ''fair and accurate accounting'' is provided to accountholders. 25 U.S.C. 4043. While Congress did not specify the nature of the remedy, the Act does recognize the existence of both the historical problems and ongoing attempts to devise an approach to resolving them. Given the acknowledged problems with past account management systems, and the 1994 Act's intent to resolve the account management deficiencies, the Department wishes to address the fact that these deficiencies may have resulted in accountholder losses through the development of a fair, reasonable, and practicable solution. Because the Act does not provide the Department with guidance on what type of process should be used to provide beneficiaries with information about their accounts' histories, the Department believes Congress left the initial determination of how, and to what extent, it would achieve an accounting or reconciliation of IIM accounts to the Department.

In 1996, the *Cobell* v. *Babbitt* litigation was filed in the U.S. District Court for the District of Columbia, asserting beneficiaries were due an accounting of their funds. The scope and nature of any such accounting has not yet been fully addressed in the case but the Court has made it clear that it lacks jurisdiction to award damages for losses beneficiaries may have incurred. *See Cobell* v. *Babbitt*, No. 1:96CV01285, slip op. at 55 (Dec. 21, 1999). In addition, because many beneficiaries have very small account balances or little historical activity, the Department believes it would best serve the interests of the beneficiaries and the United States to develop a methodology to foster compensation without the necessity of case-by-case litigation. Therefore, the Department now proposes beginning an information gathering process with beneficiaries to weigh the costs, benefits, and feasibility or alternative approaches to give IIM account holders reasonable confidence that income from their trust assets was properly credited, maintained, and distributed to and from their IIM accounts before October 25, 1994. In addition, because the Department believes that it is in the best interests of most, if not all beneficiaries to develop a process that not only provides assurance that current balances are reliable, but also provides for a final resolution to past discrepancies discovered, the Department also intends to explore approaches to fairly compensate beneficiaries and finally resolve discrepancies.

The Department notes that, although the goals of this process go beyond the remedies available in the *Cobell* case, the Court has pending before it issues related to the scope and nature of an accounting due beneficiaries. The Department intends to keep the Court apprised of the progress on this process. The Department recognizes that future decisions by the Court may affect this process.

II. Goals

Pursuant to this obligation, this notice is intended to initiate a process with beneficiaries and the public to gather information about available options to enable the Department to determine the best process to meet the following goals:

(1) Develop a methodology, consistent with Congressional directives, to examine past account activity and discover information appropriate to enable beneficiaries and the Department to evaluate whether income from their trust assets was properly credited, maintained, and distributed to and from their IIM accounts before October 25, 1994;

(2) Explore approaches to fairly compensate beneficiaries and finally resolve discrepancies.

This process is focused on developing a general methodology to investigate IIM account activity in order to provide reasonable information to account holders. This process will not, for example, address allegations of mismanagement, or other allegations of taking, of the underlying property interests. Although the methodology selected may ultimately result in a procedure which includes bringing individualized grievances related to lost income, these grievances will not be addressed within the process outlined in this notice.

III. Factors To Consider in Evaluating Options

Although the Department intends to consider the widest possible range of options for meeting the goals stated above, the Department will be guided by a number of factors in evaluating the reasonableness of each option. Each approach would require some tradeoff among the level of precision of account information provided to beneficiaries, the cost of obtaining and providing information, the impact on BIA's and OST's other responsibilities, and time needed to develop a basis for compensation. It is important that these tradeoffs be considered in evaluating the various options.

In addition, it is important to consider what has been proposed and rejected in the past and what the Department has learned from studying the accounts. Past proposals to perform IIM reconciliation have been dismissed by both Indian groups and Congress as being too expensive for the limited information produced. From 1988 to 1994, the Department, with the aid of Arthur Andersen, investigated the possibility of performing a reconciliation that would develop information on accounts without regard to the size of the account or transaction. Many of these proposals were dismissed by Congress, the Department, and the Intertribal Monitoring Association (''ITMA'') as not being worth the cost. For example, in 1995 Congress declined to fund IIM reconciliation tasks and the Appropriations Committee instructed the Department to, ''recommend alternative, less costly approaches to the reconciliation and clarify the implications of not reconciling [IIM]

accounts.'' H.R. Rep. No. 104–173, at 55. ITMA similarly advocated finding alternatives that will discover the largest discrepancies at the least cost. This experience indicates that the Department should focus on methods that discover discrepancies in the areas that are most reasonably calculated to have had significant problems in the past.

Any approach ultimately selected must also provide a final resolution for both the Department and beneficiaries with regard to the pre-1994 period that is necessary for the Department to fully correct the management of the IIM system into the future. While the level of finality needed may vary according to such issues as the level of precision achieved, it is important to note that a primary consideration for any process selected must be to end uncertainty and achieve finality as to past account activity.

It may well be that accountholders will have differing views on what is necessary to provide them with a satisfactory ''accounting.'' Those with larger accounts may be more interested in an option which offers great precision, even though achieving the desired level of precision will take a long time and substantial resources. In contrast, accountholders with smaller accounts—those with less than $100 in income per year, for example—may be satisfied with a methodology that does not yield a precise result but that leads to a fast result with certain assumptions built in to compensate for the reduced precision. As discussed more fully below, it may not be necessary to use the same methodology for all accountholders. Distinctions among accounts may be made based, for example, on the size of the account or the nature of the underlying assets owned by the accountholder.

The approach selected must provide accountholders with confidence that they have been treated fairly. The Department is spending in excess of $190 million to clean up the trust fund accounts, to install new systems to administer trust resources and trust funds, and to train Departmental officials in meeting their obligations. While the Department is confident it will be able to meet its obligations for the future, it is equally important that this process develop a result that will satisfy accountholders as to the past.

Another factor to be considered is the cost of the process. While achieving the goals of this notice is likely to be expensive regardless of which approach is selected, there is a very large cost range within the various options—from millions of dollars for the sampling or settlement approach to hundreds of millions or more for a traditional transaction-by-transaction reconciliation for all accounts. As an example, the Department's current estimates are that it could cost over $15 million just to locate and organize all documents associated with the transactions of the five named plaintiffs (and 31 related individuals) in the *Cobell* litigation. Using this estimate as a guide, it is reasonable to conclude that merely collecting and organizing—but not analyzing—documents for the approximately 300,000 current accountholders would cost hundreds of millions of dollars.

Closely associated with the overall cost of the process are the cost/benefit considerations of the options. This factor may not be as relevant for large accounts through which tens or even hundreds of thousands of dollars pass each year. This issue more likely arises with respect to the small accounts. If it costs hundreds of dollars, or even more, to undertake a particular analysis for each account, is it cost effective and reasonable to do so for an account that generates $25 or less per year?

The amount of time that a particular process may take is also a consideration. One option, a transaction-by-transaction reconciliation, for example, would doubtless take many years to complete while others, such as a sampling or settlement process, would take considerably less time. Some accountholders may find that they can achieve a sufficient level of certainty to assess past discrepancies with much less information than others may require, particularly if their account has had little activity or they can reasonably determine their interest in the property was unlikely to produce significant income. In such a case, the accountholder may wish to expedite the process in order to receive fair compensation and resolve this issue. Moreover, a process that takes many years to complete will continue to consume the finite resources of the Bureau which accountholders may believe should be better expended on other programs of benefit to Indian people.

Indeed, the Bureau has broad mandates and responsibilities, including programs of importance to many aspects of the lives of individual Indians and Tribes. These include programs relating to education, law enforcement, probate, realty and trust asset administration, and stewardship of the environment. Regardless of which methodology is employed, it will require the substantial attention of Bureau employees and expenditure of significant amounts of money. These expenditures likely do not fit within the current budget estimates and staffing of the Department, and therefore the Department will have to seek new funds from Congress to undertake any process finally selected.

IV. Examples of Alternative Approaches

The following alternative approaches are offered merely as examples to illustrate the range of options the Department could consider. This list is not exhaustive, and other constructive alternatives are invited. As previously noted, the Department recognizes it is possible that no single alternative will serve the interests of all types of accountholders. Accordingly, an approach could be designed that integrates principles from various alternatives to provide a combined methodology depending on the characteristics of the accounts, including, size of the account, region of the country, and nature of the underlying assets producing income for the account.

A. Transaction-by-Transaction Reconciliation

The most precise and extensive information possible would be developed by attempting to undertake a transaction-by-transaction reconstruction of each account. This would involve attempting to research all transactions that have occurred in each account in order to try to locate documents which could demonstrate each transaction was correct and then applying appropriate verification procedures to the reconstruction. This would be the most time consuming and expensive approach. For example, the Department's experience in the *Cobell* litigation suggests that researching and cataloging the millions of documents that would be required would very likely cost hundreds of millions of dollars and take many years. Furthermore, the reconciliation of over one thousand Tribal accounts in the early 1990's consumed $20 million and left the final amounts still in question due to missing documents and other difficulties encountered in the reconciliation process. Given the enormous scope and costs of an account-by-account, transaction-by-transaction reconstruction, it is unlikely to expect that the Congress would provide the Department with the staggering appropriations needed to fund such a process.

B. Limited Reconciliation

Another approach could be to perform a more limited reconciliation for a fixed period of time which would allow some reasonable conclusions to be drawn which could then be applied to the remaining historical period. This is similar to the approach taken by Arthur Andersen for the Tribal reconciliation project. Applying this approach to the IIM accounts would include a search for documentation to confirm data that was contained in the electronic systems used from approximately the mid-1980's to the mid-1999's and develop an error rate based on that comparison. This error rate could then be used to estimate whether accountholders had experienced losses and to arrive at a formula for compensation. Although this would be less expensive than a search for all transaction documents, there would still be significant costs associated with this process due to the fact that it involves reconstructing accounts for a particular period of time through extensive research (Arthur Anderson estimated the cost of this approach for the IIM accounts as somewhere between $108 million and $281 million).

In 1995, the Inter-Tribal Monitoring Association (ITMA) voiced their opposition to the Arthur Andersen limited reconciliation approach and proposed a limited reconciliation that did not involve reconciling transactions in IIM accounts. The ITMA approach included, in part, reconciliation of balances between the IIM subsidiary ledger and the general ledger control account. ITMA advocated focusing on high volume, high dollar activities in active years; not every lease and every property.

C. Sampling

Another approach could involve using statistical sampling to calculate potential losses. One example methodology could be to use a statistically relevant sample of accounts, transactions, or tracts of land to support a reasonable inference about the accuracy of past account transaction activity.

It may also be useful to mix a sampling approach with a more precise transactional analysis based on the general criteria of the likelihood of loss. Under this approach, a sampling methodology could be used for groups of accounts that are unlikely to have many losses (such as accounts which do not have much income) and a more precise, individualized analysis for accounts where the potential for significant loss is greater. For example, a loss amount for accounts with historical annual income of less than $100 may be broadly estimated through sampling, while accounts with annual income over $100,000 may be analyzed on an individual basis. More extensive sampling could be used for accounts in between these ranges.

D. Analysis of Current Account Data

Another approach might be to use data currently collected and tracked electronically on individual accounts to determine if the past level of account activity is consistent. Since the information that is currently tracked is more extensive than the readily available information on the past, this analysis would both provide some context for the historical information and allow some conclusions to be drawn as to its accuracy.

E. Payment Formula

Another approach could be to define a formula to quantify a ''rough justice'' payment to each accountholder. Such a formula could be based on a variety of factors, including; the amount of money that has flowed through the account each year, the number of years the account has been open, the location of the account, and the type of assets that produced revenue for the account. To counter-balance the lack of precision in this process, the formulas could be weighted to resolve uncertainty in favor of the beneficiary. While this approach lacks precision in determining past losses, the major advantage of this approach is that it is relatively simple to administer, could be done fairly quickly, and would be the least expensive methodology to implement.

VI. Scope of Comments Requested

The Department is soliciting comment on what factors accountholders consider the most important in developing the proper methodology for meeting the goals stated in this notice.

Dated: March 29, 2000.

Kevin Gover,

Assistant Secretary for Indian Affairs.

[FR Doc. 00–8120 Filed 3–31–00; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approval for Amended and Restated Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amended and Restated Compact between the Confederated Tribes of the Umatilla Indian Reservation and the State of Oregon, which was executed on December 27, 1999.

DATES: This action is effective April 3, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: March 17, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–8067 Filed 3–31–00; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Docket No. 4310–DN–P; MT–060–00–1220–AE–003E]

Closure of Unauthorized Roads Within the BLM Hole-in-the-Wall Recreation Area and Unauthorized Two-track Roads on Adjacent BLM Lands, Upper Missouri National Wild and Scenic River, Chouteau County, Montana

AGENCY: Bureau of Land Management, Lewistown Field Office, Lewistown, Montana.

SUMMARY: Notice is hereby given that unauthorized roads within the Hole-in-the-Wall Recreation Area and on adjacent BLM lands, along the Upper Missouri National Wild and Scenic River in Chouteau County, Montana are hereby closed to all types of motorized vehicles, until this notice is rescinded. The unauthorized closed roads are located on BLM lands in T.24 N., R. 13 E., Section 21, Section 22, Section 23, Section 26, Section 27, Section 28,and Section 33 in Chouteau County, Montana. No off-road motorized travel is allowed on the above listed BLM lands. No motorized vehicles will be allowed to drive through or into the fenced developed recreation area. The main access road to the Hole-in-the-Wall Recreation Area will remain open.

The purpose of these road closures is to prevent soil erosion, spread of

noxious weeds, reduce user conflicts, and to protect BLM recreation improvements and geologic formations in the area. Motorized travel on these closed roads is limited to official administrative, emergency, or law enforcement vehicles only. Use by additional persons, authorized by the BLM Lewistown Field Manager, may be allowed, but must be approved in advance by phone or in writing.

SUPPLEMENTARY INFORMATION: Maps showing the above described area are available at the BLM's Lewistown Field Office for public review. The roads closed under this order will be posted with signs.

The closure is made under the authority of 43 CFR 9268.3 (d)(1)(i,ii,iii,iv,v,) and 8364.1(a). Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 9268.3(c)(2), which includes a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months.

EFFECTIVE DATE: These road closures will become effective May 3, 2000, unless substantial and substantive adverse comments are received.

FOR FURTHER INFORMATION CONTACT: Gary Slagel, BLM Assistant Field Office Manager, at 406/538–7461.

Dated: March 22, 2000.

David L. Mari,

Field Manager.

[FR Doc. 00–8125 Filed 3–31–00; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–07–1430–01; N–60607]

Notice of Realty Action, Lease and Sale of Public Lands for Recreation and Public Purpose (R&PP) Act Application N–60607, Humboldt County, Nevada

SUMMARY: In response to an application from the State of Nevada Department of Transportation for an administration/maintenance facility, the following described land has been identified as suitable for lease and sale and will be classified for lease and sale under the R&PP Act of June 14, 1926, as amended (43 U.S.C. 869, *et seq.*):

Mount Diablo Meridian, Nevada

T. 35 N., R. 37 E., Sec. 10: N½N½S½NE¼, S½NE¼NE¼, NE¼NE¼NE¼, S½NW¼NE¼NE¼, SE¼NW¼NE¼, S½SW¼NW¼NE¼.

Containing approximately 70.00 acres more or less.

The lands are not required for Federal purposes. Disposal is consistent with the Bureau's land use plan for the area and would be in the public's interest.

FOR FURTHER INFORMATION CONTACT: Ken Detweiler, Realty Specialist, 5100 East Winnemucca Blvd., Winnemucca, Nevada 89445, telephone (775) 623–1500.

SUPPLEMENTARY INFORMATION: The public lands are being offered to the State of Nevada Department of Transportation for an Administration/Maintenance Facility. The facility would include perimeter fencing, office buildings, vehicle storage areas, utilities including a septic system, storage facilities, fueling facilities and other structures and facilities associated with a typical Nevada Department of Transportation administration/maintenance facility.

The lease and/or patent, when issued will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. Those rights for buried fiber optic cable purposes granted to Nevada Bell by Right-of-way CC–08790.

2. Those rights for highway purposes granted to the State of Nevada, Department of Transportation by Right-of-way CC–020742.

3. Those rights for highway purposes granted to the State of Nevada, Department of Transportation by Right-of-way N–3397.

4. Those rights for an access road granted to the Humboldt County, Board of Commissioner by Right-of-way N–48877.

5. An easement 30 feet in width along the south boundary of the N½N½S½NE¼, for road and public utility purposes to insure continued ingress and egress to adjacent lands.

Since the property has been developed, the lease and patent will contain a solid waste/hazardous substances(s) statement indemnifying the United States. Also, since hazardous substances may be stored on the parcel, the patent will contain a list of the hazardous substances and their period of storage on the parcel in compliance with requirements established by section 120(n) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments & Reauthorization Act (SARA) of 1988.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Field Office Manager, Winnemucca Field Office, 5100 East Winnemucca Blvd., Winnemucca, Nevada 89445.

Classification Comments

Interested parties may submit comments involving the suitability of the land for an administration/maintenance facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for an administration/maintenance facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: March 22, 2000.

Terry A. Reed,

Field Office Manager, Winnemucca.

[FR Doc. 00–8126 Filed 3–31–00; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: National Park Service, National Capital Parks—Central

ACTION: Notice and request for comments.

SUMMARY: Under the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on a proposed collection of information. The NPS specifically requests comments on: (1) the need for the information being collected, including whether the information has practical utility; (2) the validity and accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The NPS requests comments on an application form that allows the Park Programs Division of National Capital Parks—Central to process requests from individuals and organizations to hold public gatherings on NPS property. These public gatherings consist of special events and demonstrations that the NPS is charged with regulating to insure protection of cultural and natural resources within NPS property. The NPS will use the information you submit to determine whether or not to make modifications to the application form. Once the NPS makes any modifications that it may decide to adopt, the NPS plans to submit a proposed collection of information package to OMB with a request that OMB approve the package and reinstate the OMB clearance number.

You may obtain copies of the application from the source listed below (see the ''send comments to'' section).

DATES: Public comments on the proposed Information Collection Request (ICR) will be accepted on or before June 2, 2000.

SEND COMMENTS TO: Park Programs Division, National Capital Region, 1100 Ohio Dr. Rm. 128, SW, Washington, D.C. 20242. Phone: 202–619–7225, Fax: 202–401–2430.

If you wish to comment, you may submit your comments using several methods. You may mail comments to the postal address given here. You may fax your comments to the fax number given. You may also hand-deliver comments to the address given here. 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 record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the 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.

TO REQUEST PRINTED COPIES OF THE DOCUMENTS CONTACT: Park Program Division, National Capital Region, 1100 Ohio Dr. Rm. 128, SW, Washington, D.C. 20242. Phone: 202–619–7225, Fax: 202–401–2430.

SUPPLEMENTARY INFORMATION:

Title: NATIONAL PARK SERVICE, NATIONAL CAPITAL REGION APPLICATION FOR A PERMIT TO CONDUCT A DEMONSTRATION OR SPECIAL EVENT IN PARK AREAS AND A WAIVER OF NUMERICAL LIMITATIONS ON DEMONSTRATIONS FOR WHITE HOUSE SIDEWALK AND/OR LAFAYETTE PARK.

Departmental Form Number: None.

OMB Number: 1024–0021.

Expiration Date: To be requested.

Type of Request: Reinstatement without change.

Description of Need: The information collection responds to the statutory requirement that the NPS preserve park resources and regulate the use of units of the National Park System. The information to be collected identifies: (1) those individuals and/or organizations that wish to conduct a public gathering on NPS property in the National Capital Region, (2) the logistics of a proposed demonstration or special event that aid the NPS in regulating activities to insure that they are consistent with the NPS mission, (3) potential civil disobedience and traffic control issues for the assignment of United States Park Police personnel, (4) circumstances which may warrant a bond to be assigned to the event for the purpose of covering potential cost to repair damage caused by the event.

Description of Respondents: Respondents are those individuals or organizations that wish to conduct a special event or demonstration on NPS property within the National Capital Region.

Estimated average number of annual respondents: 2200.

Estimated average burden hours per response: .05 hours.

Estimated annual reporting burden: 110 hours.

Leonard E. Stowe,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 00–8045 Filed 3–31–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

60-Day Notice of Intention To Request Clearance of Collection Information; Opportunity for the Public To Comment

AGENCY: National Park Service, The Department of Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the notice announces the National Park Service (NPS) intention to request approval of information collection associated with a voluntary backcountry registration system to be administered by Kenai Fjords National Park.

DATES: Public comments on this notice will be accepted on or before June 2, 2000 to be assured of consideration.

SEND COMMENTS TO: Michael D. Tetreau, Resource Management Specialist, Kenai Fjords National Park, P.O. Box 1727, Seward, AK 99664.

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. Copies of the information collection can be obtained from Michael D. Tetreau, Resource Management Specialist, Kenai Fjords National Park, P.O. Box 1727, Seward, AK 99664.

FOR FURTHER INFORMATION CONTACT: Michael D. Tetreau, (907) 224–3175.

SUPPLEMENTARY INFORMATION:

Title: Voluntary Coastal Backcountry Registration.

OMB Number: Requested.

Expiration Date of Approval: Requested.

Type of Request: New collection.

Abstract: Kenai Fjords National Park is in the process of developing a backcountry management plan and the collection of accurate visitor use information is necessary in order to formulate appropriate management strategies. The proposed voluntary registration system will also improve information dissemination to visitors prior to their trip to the fjords, thus reducing their impacts to park resources

and the chances of their needing rescue or other assistance from park personnel. In addition, the information being collected will make any emergency response more efficient.

Respondents: Individuals.

Estimated Annual Burden on Respondents: 25 hours.

Estimated average burden hours per response: 0.25 hours.

Estimated average number of respondents: 100 annually.

Estimated frequency of response: 100 annually.

Leonard E. Stowe,

Information Collection Clearance Officer National Park Service, WAPC.

[FR Doc. 00–8046 Filed 3–31–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Record of Decision—Booker T. Washington National Monument Final General Management Plan and Abbreviated Final Environmental Impact Statement

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Record of Decision Availability—Booker T. Washington National Monument Final General Management Plan and Abbreviated Final Environmental Impact Statement.

SUMMARY: Following the required 30-day no action period, Marie Rust, Northeast Regional Director, National Park Service signed the Record of Decision on March 22, 2000 for the Final General Management Plan and Abbreviated Final Environmental Impact Statement for Booker T. Washington National Monument in Hardy, Virginia.

The Record of Decision is available on the park's web site: http://www.nps.gov/bowa.

For more information or a copy of the Record of Decision contact Rebecca Harriet, Superintendent, Booker T. Washington National Monument, 12130 Booker T. Washington Highway, Hardy, VA 24101–9688. The superintendent's phone number is 540–721–2094.

Dated: March 22, 2000.

Marie Rust,

Northeast Regional Director, National Park Service.

[FR Doc. 00–8044 Filed 3–31–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Advisory Commission Meeting

AGENCY: National Park Service, Jimmy Carter National Historic Site.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Jimmy Carter National Historic Site Advisory Commission will be held at 1 p.m. to 4 p.m. and 9 a.m. to 11:30 a.m. at the following location and dates.

DATES: April 5 and 6, 2000.

LOCATION: The Carter Library, One Copenhill, Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Boyles, Superintendent, Jimmy Carter National Historic Site, Route 1, Box 800, Andersonville, Georgia 31711, (912) 924–0343, Extension 105.

SUPPLEMENTARY INFORMATION: The purpose of the Jimmy Carter National Historic Site Advisory Commission is to advise the Secretary of the Interior or his designee on achieving balanced and accurate interpretation of the Jimmy Carter National Historic Site.

The members of the Advisory Commission are as follows: Dr. Henry King Stanford, Dr. James Sterling Young, Dr. Barbara J. Fields, Dr. Donald B. Schewe, Dr. Steven H. Hochman, Director, National Park Service, Ex-Officio member.

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

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 record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your 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 entity.

Dated: March 21, 2000.

W. Thomas Brown,

Acting Regional Director, Southeast Region.

[FR Doc. 00–8043 Filed 3–31–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1994), that the National Park System Advisory Board will meet April 14–16, 2000. The Board will convene for a 1½ hour session on April 14, and reconvene on April 16 for a full-day session in the Ballroom of The Golden Gate Club, 135 Fisher Loop, The Presidio of San Francisco, San Francisco, California. The Board will tour The Presidio of San Francisco and the Golden Gate National Recreation Area on the afternoon of April 14, and will tour Point Reyes National Seashore on April 15.

On April 14, the Board will convene from 8:30 a.m. until 10:00 a.m. The Board will reconvene on April 16, at 8:30 a.m., and adjourn at approximately 5:30 p.m. National Park Service Director Robert Stanton will address the Board. The Board will consider organization and procedural matters relative to undertaking a study of the future of the National Park Service and the National Park System. National Historic Landmark nominations will be reviewed by the Board during the afternoon session on April 16.

The Board may be addressed at various times by other officials of the National Park Service and the Department of the Interior; and other miscellaneous topics and reports may be covered. The order of the agenda may be changed, if necessary, to accommodate travel schedules or for other reasons.

The Board meeting will be open to the public. Space and facilities to accommodate the public are limited and attendees will be accommodated on a first-come basis. Anyone may file with the Board a written statement

concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Anyone who wishes further information concerning the meeting, or who wishes to submit a written statement, may contact Mr. Loran Fraser, Office of Policy, National Park Service, 1849 C Street, NW, Washington, DC 20240 (telephone 202–208–7456).

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 2414, Main Interior Building, 1849 C Street, NW, Washington, DC.

Dated: March 28, 2000.

Robert Stanton,

Director, National Park Service.

[FR Doc. 00–8163 Filed 3–31–00; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–696–697 (Review)]

Pure Magnesium From China and Russia

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on pure magnesium from China and Russia.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on pure magnesium from China and Russia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is May 23, 2000. Comments on the adequacy of responses may be filed with the Commission by June 19, 2000. For further information concerning the conduct of these reviews 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).

EFFECTIVE DATE: April 3, 2000.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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 May 12, 1995, the Department of Commerce issued antidumping duty orders on imports of pure magnesium from China and Russia (60 FR 25691). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are China and Russia.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as all pure magnesium, whether or not it meets ASTM specifications. One Commissioner defined the Domestic Like Product differently.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as producers of all pure magnesium, whether or not it meets ASTM specifications. One Commissioner defined the Domestic Industry differently.

(5) The Order Date is the date that the antidumping duty orders under review became effective. In these reviews, the Order Date is May 12, 1995.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews 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 the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 00–5–053, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 23, 2000. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is June 19, 2000. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1994.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1999 (report quantity data in metric tons and value data in thousands of U.S. dollars, f.o.b. plant).[2] If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if know, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1999 (report quantity data in metric tons and value data in thousands of U.S. dollars).[2] If you are a trade/business association, provide the information, on an aggregate basis, for

[2] Interested parties that have provided identical information in response to a Commission questionnaire in the ongoing 5-year reviews on alloy and pure magnesium from Canada (invs. Nos. 701–TA–309–A and B and 731–TA–528 (Review)) may reference that response in lieu of providing the information again in response to this notice.

the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1999 (report quantity data in metric tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s'') production; and

(b) The quantity and value of your firm's(s'') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s'') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: March 24, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–8161 Filed 3–31–00; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on March 22, 2000, a proposed consent decree (''Consent Decree'') in *United States* v. *Brownwood Furniture, Inc.,* Civil Action No. EDCV00–182 RT(BQR) (C.D. Cal.), was lodged with the United States District Court for the Central District of California.

The Consent Decree resolves claims that the United States asserted against Brownwood Furniture, Inc. (''Brownwood'') in a civil complaint filed concurrently with the lodging of the Consent Decree. The complaint alleges violations of the Clean Air Act and the State Implementation Plan (''SIP'') at Brownwood's Rancho Cucamonga facility located in San Bernardino County, California. Specifically, the complaint alleges that defendant, Brownwood violated emissions and record-keeping conditions of its 1989 New Source Review permit to operate its original spray booth. The complaint also alleges that, with respect to the two spray booths defendant added in 1998, it failed to obtain valid permits to construct or permits to operate before constructing and operating that additional equipment; failed to apply Best Available Control Technology (''BACT''); and failed to provide emission offsets. In addition, the complaint alleges that defendant failed to provide all information necessary for the South Coast Air Quality Management District's permit determination. The complaint also alleges in the alternative, that if the permits to operate the new spray booths were valid, then defendant violated the emission limit of one of those permits. The Consent Decree requires defendant to pay a civil penalty of $115,000, plus interest, and follow a compliance plan to reduce volatile organic compound (VOC) emissions at the two additional booths by using ultra-low VOC coatings and/or the addition of control equipment.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Brownwood Furniture, Inc.,* Civil Action No. EDCV00–182 RT(BQR) (C.D. Cal.), and D.J. Ref. 90–5–2–1–06555.

The Consent Decree may be examined at the Office of the United States Attorney, Federal Building Room, 7516, 300 North Los Angeles Street, Los Angeles, California 90012, and at U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 2004–7611. In requesting a copy, please enclose a check in the amount of $4.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–8075 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in the action entitled *United States of America* v. *Bruce Migell, the Tilton Trust, Bruce Migell-Trustee, and Atlantic Battery Company, Inc., d/b/a*

Surrette American Battery (Civil No. 99–255–M, D. N.H.), was lodged on March 22, 2000, with the United States District Court for the District of New Hampshire. The proposed consent decree resolves claims of the United States, on behalf of the U.S. Environmental Protection Agency (''EPA''), under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9601–9675, against Bruce Migell, the Tilton Trust Bruce Migell-Trustee, and Atlantic Battery Company, Inc., d/b/a/ Surrette America Battery (hereinafter, defendants). These claims are for recovery of costs incurred and to be incurred by the United States with respect to the Surrette America Battery Removal Site in Northfield, New Hampshire

Under the terms of the proposed consent decree, defendants will (1) pay the United States $40,000 in partial reimbursement of past and future federal response costs with respect to the Site; and (2) provide EPA with continuing access to property owned by defendants that is part of the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, and should refer to *United States of America* v. *Bruce Migell, the Tilton Trust, Bruce Migell-Trustee, and Atlantic Battery Company, Inc., d/b/a/ Surrette American Battery* (Civil No. 99–255–M, D. N.H.), DOJ Ref. No. 90–11–3–06012.

The proposed consent decree may be examined at the offices of EPA Region I, One Congress Street, Suite 1100, Boston, MA 02114–2023, and the Office of the United States Attorney, Federal Building, 55 Pleasant Street, Concord, New Hampshire 03301. A copy may be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611. In requesting a copy by mail, please refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction costs for the Decree and Appendix) made payable to Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environmental and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 00–8076 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Under Section 122(i) of CERCLA, 42 U.S.C.A. 9622(i), notice is hereby given that on March 20, 2000, a proposed Consent Decree in *United States* v. *Safe Tire Disposal Corp. and Safe Tire Disposal Corp. of Texas* (''Defendants''), Civil Action No. 398CV2865–T, was lodged with the United States District Court for the Northern District of Texas, Dallas Division.

In this action the United States, on behalf of the United States Environmental Protection Agency (''EPA''), sought recovery of response costs arising from releases of a hazardous substance in connection with a tire fire that occurred on land owned by Safe Tire Disposal Corp., located in the City of Midlothian, Ellis County, Texas. The proposed Consent Decree requires the Defendants to pay $100,000 in partial reimbursement of EPA's response costs. The proposed Consent Decree resolves the Defendants' liability under Section 107(a) of CERCLA, 42 U.S.C. 9607(a).

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, N.W., Washington, DC 20044–7611, and should refer to *United States* v. *Safe Tire Disposal Corp. and Safe Tire Disposal Corp. of Texas*, D. J. Ref. 90–11–3–06553.

The Consent Decree may be examined at U.S. EPA Region 6, Superfund Division, 1445 Ross Avenue, Suite 1200, Dallas Texas. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $5.75 payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–8073 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Sections 104 and 107 of Cercla

Notice is hereby given that on March 13, 2000, the United States lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas, in *United States of America* v. *Texas City Refining, Inc.,* No. G–00–145, and *Amoco Chemical Company* v. *United States, et al.,* No. G–96–272, pursuant to Sections 104 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9604 and 9607. The proposed Consent Decree resolves civil claims of the United States and Amoco Chemical Company (''Amoco'') against Texas City Refining, Inc. in connection with the Tex Tin Superfund Site, located in Texas City and La Marque, Texas. Texas City Refining, a dissolved Delaware corporation, will pay $50,000 to the United States and $12,500 to Amoco in reimbursement of response costs incurred at the Site by the Environmental Protection Agency and Amoco.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC. 20044–7611, and should refer to *United States of America* v. *Texas City Refining, Inc.,* DJ No. 90–11–3–1669/2.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Texas, 515 Rusk, Ste. 3300, Houston, Texas 77002, and the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $8.00, payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–8074 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc. (''Cablelabs'')

Notice is hereby given that, on August 28, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Cable Television Laboratories, Inc. (''CableLabs'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Seaside Cable TV (1984) Ltd., Glace Bay, Nova Scotia, CANADA; and Media General Cable, Chantilly, VA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Cable Television Laboratories, Inc. intends to file additional written notification disclosing all changes in membership.

On August 8, 1988, Cable Television Laboratories, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 7, 1988 (53 FR 34593).

The last notification was filed with the Department on May 5, 1998. A notice has not yet been published in the **Federal Register**.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–8077 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium

Notice is hereby given that, on January 22, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium (the ''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ericsson, Menlo Park, CA has joined the Consortium as an Executive Sponsor member. Cable & Wireless PLC, London, UNITED KINGDOM has joined the Consortium as a Corporate Sponsor member. Ironside Technologies, Pleasanton, CA; Dunn & Bradstreet, Bethlehem, PA; and Thomas Register/Thomas Publishing Company, New York, NY have joined the Consortium as Portfolio members. FASTchange, Inc., Marina del Rey, CA; Actium, Conshohocken, PA; Federal Reserve Bank of Chicago, Chicago, IL; and Usi, Annapolis, MD have joined the Consortium as Core members. ECNow.com, Cupertino, CA has joined the Consortium as an In-kind member. Also, Softbank GII, Foster City, CA; Anheuser Busch, St. Louis, MO; and ITAA, Arlington, VA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CommerceNet Consortium intends to file additional written notification disclosing all changes in membership.

On June 13, 1994, CommerceNet Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6 (b) of the Act on August 31, 1994 (57 FR 45012).

The last notification was filed with the Department on December 15, 1998. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Divsion.

[FR Doc. 00–8082 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Hart Communication Foundation (''HCF'')

Notice is hereby given that, on November 3, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Hart Communication Foundation (''HCF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Action Instruments, Inc., San Diego, CA; Amdell Ltd., Thebarton, AUSTRALIA; Burkert GmbH & Company KG, Ingelfingen, GERMANY; Camille Bauer AG, Wohlen, SWITZERLAND; CEGELEC–BPT, Camart, Cedex, FRANCE; DANFOSS A/S, Nordborg, DENMARK; Direct Measurement Corp., Longmont, CO; Druck Ltd., Groby, Leicester, UNITED KINGDOM; Dynisco Instruments, Sharon, MA; Elcon Instruments, Norcross, GA; EMCO Flowmeters, Longmont, CO; Fluke Electronics Corporation, Everett, WA; GLI International Inc., Milwaukee, WI; Huakong Technology Co., Ltd., Beijing, CHINA; Jordan Controls, Inc., Milwaukee, WI; Klay Instruments B. V., Dwingeloo, THE NETHERLANDS; LABOM Mess-und Regeltechnik GmbH, Hude, GERMANY; M-System Co., Ltd., Yokohama, JAPAN; Paper Machine Components, Inc. (PMC), Danbury, CT; Rochester Instrument Systems, Inc., Rochester, NY; Sparling Instruments, Inc., El Monte, CA; Spriano S.p.A., Vimodrone, ITALY; Tokyo Keiso Company, Ltd., Tokyo, JAPAN; TROLEX Limited, Stockport, Cheshire, UNITED KINGDOM; TURBO-Werk Messtechnik GmbH, Koln, GERMANY; U.S. Electrical Motors, St. Louis, MO; Val Controls A/S, Esbjerg, DENMARK; VALCOM S.r.l., Milan, ITALY; VorTek Instruments, LLC, Longmont, CO; W. Borst, Fachingen, GERMANY; WIKA Alexander Wiegand GmbH, Klingenberg, GERMANY; Worcester Controls Corporation, Marlboro, MA; Yokogawa Europe B.V., Amersfoort, THE NETHERLANDS; and Zaklady Automatyki Przemyslowej S.A., Ostrow Wielkopolski, POLAND have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Hart Communication Foundation (''HCF'') intends to file additional written notification disclosing all changes in membership.

On March 17, 1994, Hart Communication Foundation (''HCF'') filed its original notification pursuant to Section 6(a) of the Act. The Department

of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 5, 1994 (59 FR 23234).

The last notification was filed with the Department on December 8, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 3, 1997 (62 FR 5939).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–8078 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Photonic Batch Processing (''PBP'') Consortium

Notice is hereby given that, on February 3, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Photonic Batch Processing (''PBP'') Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Adept Technology, Inc., San Jose, CA; Newport Corporation, Irvine, CA; Rsoft, Inc., Ossining, NY; and SDL, Inc., San Jose, CA. The nature and objectives of the venture are to develop new technologies for automated batch processing for assembling optics, lasers, and other components into devices.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–8081 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Salutation Consortium, Inc.

Notice is hereby given that, on February 8, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Granite Systems, Inc., Boulder, CO has been added as party to this venture. Also, RIOS Systems Co., Ltd., Yokohama, JAPAN has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to Section 6 (a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on November 16, 1998. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–8083 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Silicon Integration Initiative, Inc. (''S12'')

Notice is hereby given that, on June 22, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Silicon Integration Initiative, Inc. (''S12'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, VLSI. San Jose, CA has been added as a party to this venture. Also, Avant!, Sunnyvale, CA; Compass Design Automation, San Jose, CA; Matsushita Electric Ind. Company, Osaka, JAPAN; National Semiconductor Corporation, Santa Clara, CA; Sun Microsystems, Inc., Mountain View, CA; Aspect Development, Boulder, CO; and Veda Design Automatic, LTD., Fareham, Hampshire, ENGLAND have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Silicon Integration Initiative, Inc. (''S12'') intends to file additional written notification disclosing all changes in membership.

On December 30, 1988, Silicon Integration Initiative, Inc. (''S12'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 13, 1989 (54 FR 10456).

The last notification was filed with the Department on March 6, 1998. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–8079 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute (''SwRI''): Advanced Reciprocal Engine Systems (''ARES'')

Notice is hereby given that, on June 30, 1999, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SwRI''): Advanced Reciprocal Engine Systems (''ARES'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Federal Mogul Ignition Products, Toledo, OH has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Southwest Research Institute (''SwRI''): Advanced

Reciprocal Engine Systems (''ARES'') intends to file additional written notification disclosing all changes in membership.

On February 9, 1999, Southwest Research Institute (''SwRI''): Advanced Reciprocal Engine Systems (''ARES'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 26, 1999 (64 FR 28521).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–8084 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Wireless Application Protocol Forum Ltd. (''WAP'')

Notice is hereby given that, on September 17, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Wireless Application Protocol Forum, Ltd. (''WAP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Alcatel, Columbes, Cedex, FRANCE; AT&T Wireless Services, Inc., Redmond, WA; BellSouth Cellular Corp., Atlanta, GA; Bosch Telecom Danmark A/S, Pandrup, DENMARK; Cellnet, Slough, UNITED KINGDOM; CMG Telecommunications & Utilities B.V., Utrecht, THE NETHERLANDS; Comverse Network Systems, Inc., Wakefield, MA; DDI Corporation, Tokyo, JAPAN; Dolphin Telecommunications Ltd., Basingstoke, UNITED KINGDOM; Gemplus, Gemenos, Cedex, FRANCE; IDO Corporation, Tokyo, JAPAN; Intel Corporation; Folsom, CA; Itochu Techno-Science Corp., Tokyo, JAPAN; Logica Aldiscon Ltd., Dublin, IRELAND; Mitsubishi, Sunnyvale, CA; NEC Technologies (UK) Limited, Slough, UNITED KINGDOM; PageNet Inc., Plano, TX; Philips Consumer Communications, LeMans, Cedex, FRANCE; Puma Technology, Inc., San Jose, CA; QUALCOMM, San Diego, CA; Rogers Cantel Inc., Toronto, Ontario, CANADA; RSA Data Security, Redwood City, CA; Samsung Electronics Co., Ltd., Suwon City, KOREA; SBC Technology Resources; Inc., Austin, TX; Shu-Chin Su Chen, Taiwan, REPUBLIC OF CHINA; Siemens AG, Munich, GERMANY; Sonera Corporation, Helsinki, FINLAND; Sprint Spectrum L.P., Kansas City, MO; SWISSCOM Limited, Berne, SWITZERLAND; Telenor Mobil, Oslo, NORWAY; Telia Mobile AB, Nacka Strand, SWEDEN; and Telstra Corporation Ltd., Sydney, New South Wales, AUSTRALIA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Wireless Application Protocol Forum, Ltd. (''WAP'') intends to file additional written notification disclosing all changes in membership.

On March 18, 1998, Wireless Application Protocol forum, Ltd. (''WAP'') filed its original notification pursuant to Section 6(a) of the Act. A notice for this filing has not yet been published in the **Federal Register.**

The last notification was filed with the Department on May 13, 1998. A notice has not yet been published in the **Federal Register.**

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 00–8080 Filed 3–31–00; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act (WIA) Standardized Record Data (WIASRD), Quarterly Summary Report, and Annual Report; Comment Request

ACTION: Notice; Request for Comments.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 ((PRA95) (44 U.S.C. 3506 (c) (2) (A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the new management information and reporting system including the Workforce Investment Act Standardized Record Data (WIASRD), the Quarterly Summary Report and the Annual Report under the Workforce Investment Act of 1998 (WIA).

DATES: Written comments must be submitted to the office listed in the addresses section below on or before June 2, 2000. The Department is particularly interested in comments which:

—Evaluate the Department's ability to meet its reporting responsibility using the proposed system;

—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;

—Enhance the quality, utility, and clarity of the information to be collected;

—Minimize the burden of the collection of information on those who are to respond, including the use of appropriate electronic reporting mechanisms; and

—Examine the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

ADDRESSES: Please address correspondence concerning the proposed system to: U.S. Department of Labor, Employment and Training Administration, Office of Workforce Security, 200 Constitution Avenue, NW., Room S4231, Washington, DC 20210, Attention: William Rabung, Fax: (202) 219–8506. (This is not a toll-free number.), or E-mail: *wrabung@doleta.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Performance accountability is a key principle under the Workforce Investment Act of 1998 (WIA). The Department intends to support the desired focus on customer service and continuous improvement by providing opportunities for accountability at all levels of the system, especially at the State and local levels.

The basic accountability system will allow the Department to manage its responsibilities under WIA secs. 136(d)

and 189(d) in terms of reporting the progress of States in achieving negotiated levels of performance on the required core and customer satisfaction measures, its responsibilities under WIA sec. 185(a)(2), (c)(2), and (d) in terms of reports and recordkeeping, and its responsibilities under the Government Performance and Results Act (GPRA). The Federal reporting and record keeping structure will build on, and reflect the customer service focus, the continuous improvement goals, and the partnership expectations. In general, Federal reporting and recordkeeping requirements will be those minimally required to comply with statutory provisions, and will be designed so that they may be satisfied through systems put in place by the State and local partners to ensure State and local accountability.

There will be two basic report systems—financial and program. Financial reports will be required quarterly, as provided for in WIA sec. 185(e). To avoid unnecessary reporting, the quarterly financial report looks at expenditures and records related to WIA sec. 185(f) and (g). The quarterly financial report was addressed in a separate **Federal Register** Notice (65 FR 5897–5898, Feb. 7, 2000). The three program reports include:

A. Individual Records

The Department has established a standard set of core data elements that must be maintained for each individual who receives WIA Title IB services beyond self-service and informational activities. The number of data elements collected for each individual is commensurate with the intensity of the service. Beginning July 1, 2000, States must submit copies of the individual participant records once each year by September 30 for all participants, including participants who exited but for whom information on outcomes is not yet complete. The individual standardized records will be strictly confidential. The Workforce Investment Act Standardized Record Data (WIASRD) will contain:

—Relevant demographic characteristics including race, ethnicity, sex and age and other related information on the participants (WIA sec. 185(d)(1)(A));
—WIA Title IB and partner program activities in which the participants are enrolled and the length of time the participants are engaged in such activities (WIA sec. 185(d)(1)(B)); and
—Outcomes for the participants, including occupations and placement in non-traditional employment (WIA sec. 185(d)(1)(C)).

The proposed WIASRD and related documents can be viewed at the Department's Internet website, *http://www.usworkforce.org.*

B. Quarterly Summary Reports

Quarterly summary reports reflecting statewide activity for negotiated performance and actual performance levels as well as the number of current participants and those participants who exited during the program period, will provide DOL with key information necessary for program oversight purposes. This information will facilitate the Department's efforts in assessing its own performance against established GPRA goals. States will be expected to electronically submit the quarterly summary reports within 45 days following the end of each quarter.

Quarterly reports are described in WIA sec. 185(a)(2)—''Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this title. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress, in which case an estimate may be provided.''

The proposed Quarterly Summary Report Format and instructions for completing this report can be viewed at the Department's Internet website, *http://www.usworkforce.org.*

C. Annual Reports

On a yearly basis, States must publish and submit to the Secretary an Annual Report which explains the outcomes of WIA Title IB programs to employers, taxpayers, participants and Congress and meets the provisions at WIA sec. 136(d) and WIA sec. 185(d) as described in the following chart:

REQUIRED COMPONENTS OF THE ANNUAL REPORT

WIA citation	Performance-related items
§ 136(d)(1)	State's progress in achieving performance measures including the core indicators of performance, the customer satisfaction indicator, any additional indicators of performance (if any) identified by the State, and the negotiated level of performance for each indicator.
§ 136(d)(1)	Progress of local areas in the States in achieving performance measures including the core indicators of performance and the customer satisfaction indicators.
§ 136(d)(2)(A)	Entry by participants who have completed training services provided under section 134(d)(4) into unsubsidized employment related to the training received.
§ 136(d)(2)(B)	Wages at entry into employment for participants in workforce investment activities who entered unsubsidized employment, including the rate of wage replacement for such participants who are dislocated workers.
§ 136(d)(2)(C)	Cost of workforce investment activities relative to the effect of the activities on the performance of participants. (Please note: States will have the flexibility to define this element.)
§ 136(d)(2)(D)	Retention and earnings received in unsubsidized employment 12 months after entry into the employment.
§ 136(d)(2)(E)	Performance with respect to the indicators of performance specified in subsection (b)(2)(A) of participants in workforce investment activities who received the training services compared with the performance of participants in workforce investment activities who received only services other than the training services (excluding participants who received only self-service and informational activities).
§ 136(d)(2)(F)	Performance with respect to the indicators of performance specified in subsection (b)(2)(A) of recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced homemakers, and older individuals.

Citation	Other performance-related items
§ 136(d)(1)	Status of State evaluations of workforce investment activities described in subsection (e) (evaluation of state programs).
§ 189(d)(1)	A summary of the achievements, failures, and problems of the programs and activities in meeting the objectives of this title.
§ 189(d)(2)	A summary of major findings from research, evaluations, pilot projects, and experiments conducted under this title in the fiscal year prior to the submission of the report.
§ 189(d)(3)	Recommendations for modifications in the programs and activities based on analysis of such findings.

Citation	Other performance-related items
§ 189(d)(4)	Such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.
§ 185(d)(1)(D)	Specified costs of the (programs and) activities.
§ 136(d)(3)	Information dissemination.—The Secretary—(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods; (B) shall disseminate State-by-State comparisons of information; and (C) shall provide the appropriate congressional committees with copies of such reports.

The Annual Report will be prepared by each State in accordance with guidelines established by the Department, including definitions for calculating performance, and specifications for satisfactory completion and submission of the report. The State's Annual Report will include state performance as well as local performance.

The Annual Report will be sent to Congress. The performance outcomes detailed in the report will serve as the basis for awarding incentives or administering sanctions to States for performance which exceeds or falls below the negotiated levels of performance (The negotiation process and details of the incentive and sanction process are described in separate Federal guidance—TEGL 8–99). The final approach to distributing incentive awards is still under development, but may include, among other things, performance reports from each State submitted by the date specified by the Secretary. A State that does not meet the deadline (September 30 of each year) for submission may be subject to sanction as described in WIA sec. 136(g)(1) and Interim Final Rule at 20 CFR 667.300 (e).

The Secretary plans to post these annual reports on a web site. In accordance with the Act, the Secretary will send copies of the State's Annual Report to each Local Workforce Investment Board (local board) and to the State Workforce Investment Board (State Board) if the State does not submit assurance that this has been accomplished by the time of submission to the Secretary.

The instructions for completing an annual report can be accessed and viewed at the Department's Internet website, *http://www.usworkforce.org.*

In order to report on the two required customer satisfaction measures (one for employers and one for participants) in the annual and quarterly summary reports, States must conduct surveys of both groups following the directions contained in Attachment V posted on the Department's Internet website, *http://www.usworforce.org.*

II. Current Actions

The proposed data collection and reporting system will assist the Department in meeting its mandated responsibilities by providing standardized information regarding demographics, activities and outcomes for all registrants receiving more than informational or self-service in all States and workforce investment areas. Information will also be used for general oversight, continuous improvement and research purposes.

Type of Review: New.

Agency: Employment and Training Administration.

Titles: Workforce Investment Act Standardized Record Data, (WIASRD), Annual Report, Quarterly Summary Reports.

OMB Number: 1205–0NEW.

Affected Public: State governments, local workforce investment areas, and local workforce investment boards.

Cite/Reference: Authority to collect this information is provided by the Workforce Investment Act of 1998 in secs. 136, 185, and 189.

Form/etc: See the documents posted on the Department's Internet website, http://www.usworkforce.org.

Total Respondents: 56 (50 States, American Samoa, Commonwealth of the Northern Mariana Islands, District of Columbia, Guam, Puerto Rico, and Virgin Islands).

Frequency: Annual Report—Yearly by September 30 with quarterly summary reports due within 45 days following each quarter Individual Record—Annually by September 30.

Total Responses: One Annual Report for each respondent. States must submit three hard copies and one electronic copy of the annual report to the Secretary of Labor. One electronic submission of the Quarterly Summary Report from each respondent. One electronic data set from each of the respondents containing individual records for each registrant served.

Average Time: 13,862 hours.

Per Response: The actual response time will vary by number of local workforce investment boards and individual records of individuals served in the State.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden (total nat. hours)
Individual Record	56	Annually	1 set of records per respondent (set will vary in size depending on the number of individuals served in the jurisdiction).	13,152 hours	736,512
Annual Report	56	Annually	56	40 hours	2,240
Customer Satisfaction Survey.	500 participants 500 employers	Quarterly/Annually	56,000	5 min. 1/12 hr.)*	4,667.
(Results to be included in the Annual and Quarterly Reports).	Agency Admin. 56		56	500 hours	28,000
	Overhead 56		56	154 hours	8,624
Quarterly Summary Report (Statewide aggregate data only).	56	Quarterly	224 (56X4)	16 hours	3,584

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden (total nat. hours)
Totals	1,056	Quarterly/Annually	56,281	13,862 hours	783,627

* Assumes only 3 ASCI questions are administered.

Explanation of Burden Hours

Individual Record—736,512 hrs

Baseline: 8,768 hrs./reporting unit (State) (56 reporting units) in last FRN regarding Job Training Partnership Act (JTPA) reporting system (SPIR). Factor: 50% higher due to (1) increase in size of record, and (2) increase in number of program participants. Increases were not cumulative; some allowance made for economies of scale and learning curve.

Annual Report—2,240 hrs

Estimate based on 40 hrs./reporting unit to produce one report per year (includes program run, checking, report formatting for transmission).

Quarterly Report—3,584 hrs

Estimate based on 64 hrs./reporting unit to produce four reports per year (includes program run, checking, report formatting for transmission)—16 hrs./report.

Customer Satisfaction Survey

Respondents—4,667 hrs.

Estimate based on 1,000 responses per reporting unit (500 WIA participants and 500 employers) and 5 min. (1/12 hr.) per survey. This assumes only the three ACSI questions are asked.

Survey Administration—28,000 hrs.

Estimate based on 30 min. (0.5 hrs.) to obtain a completed survey (telephone contacts, call-backs, data entry).

Survey Preparation and Overhead—8,624 hrs.

Estimate based on:

Survey development (preparation of questionnaire and telephone script for interviewer)—40 hrs./reporting unit.

Sample selection—24 hrs./reporting unit.

Survey set-up (setting up survey for telephone administration and creation of a database)—40 hrs./reporting unit.

Compilation of results (includes generation of descriptive statistics and calculation of index for participants and employers)—50 hrs./reporting unit.

Total Burden Cost (capital/start-up)—$825,906

Estimate based on 1/3 staff year to develop WIASRD data record; this estimate was based on experience of Utah in converting from SPIR to WIASRD and programming time for the Data Validation and Denied Claims Accuracy pilots. A staff year cost factor of $44,245 was applied; this is the salary/benefits rate used in the FY 2000 budget.

Total Burden Cost (operating/maintaining)—$16,653,333.50

The estimate is based on the $44,245 staff year cost factor applied to the burden hours listed above. The burden hours for participant and employer responses to the customer satisfaction surveys equates to $24,035, while the burden cost for developing the survey and start-up totals $183,432.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will become a matter of public record.

III. Documents for Review and Comment

The following documents cited in this notice can be viewed at the Department's Internet website, http://www.usworkforce.org:

—The Workforce Investment Act Title IB Standardized Record Data (WIASRD) layout;

—The Workforce Investment Act Quarterly Summary Report Format;

—The Instructions for Submission of WIA Quarterly Summary Report;

—The instructions for submission of the WIA Annual Report; and

—The instructions for capturing, computing and recording outcomes on the Customer Satisfaction Measures

Dated: March 28, 2000.

Raymond L. Bramucci,

Assistant Secretary of Labor.

[FR Doc. 00–8122 Filed 3–31–00; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–14; Exemption Application D–10830]

Amendment to Prohibited Transaction Exemption 80–26 (PTE 80–26) for Certain Interest Free Loans to Employee Benefit Plans

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Adoption of Amendment to PTE 80–26.

SUMMARY: This document provides a temporary amendment to PTE 80–26, a class exemption that permits parties in interest with respect to employee benefit plans to make interest free loans to such plans, provided the conditions of the exemption are met. The amendment affects all employee benefit plans, their participants and beneficiaries, and parties in interest with respect to those plans engaging in the described transactions.

EFFECTIVE DATE: The amendment to PTE 80–26 is effective from November 1, 1999 until December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. J. Martin Jara, Office of Exemptions Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8881. (This is not a toll-free number); or Wendy McColough, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor (202) 219–4600. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On November 29, 1999, notice was published in the **Federal Register** (64 FR 66666) of the pendency before the Department of a proposed amendment to PTE 80–26 (45 FR 28545, Apr. 29, 1980).[1] PTE 80–26 provides an exemption from the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal

[1] A minor correction was made to the title of the final exemption in a notice published in the **Federal Register** on May 23, 1980. (45 FR 35040).

Revenue Code of 1986 (the Code), by reason of section 4975(c)(1)(B) and (D) of the Code in connection with certain interest free loans to employee benefit plans.

The amendment to PTE 80–26 adopted by this notice was proposed by the Department on its own motion pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[2]

The notice gave interested persons an opportunity to submit written comments or requests for a public hearing on the proposed amendment to the Department. The Department received three comments and no requests for a public hearing. Upon consideration of the record as a whole, the Department has determined to grant the proposed amendment with minor modifications.

For the sake of convenience, the entire text of PTE 80–26, as amended, has been reprinted with this notice.

Discussion of the Comments Received

The Department received three comments with regard to the proposed amendment, all generally supporting the grant of the exemption. Two of the comments requested additional modifications, as addressed below.

The proposed amendment limited relief to transactions involving the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan for a purpose incidental to the ordinary operation of the plan which arises in connection with the plan's inability to liquidate, or otherwise access its assets or data as a result of a Y2K problem. A Y2K problem was defined in Section III of the proposed amendment as 'a disruption of computer operations resulting from a computer system's inability to process data because such system recognizes years only by the last two digits, causing a ''00'' entry to read as the year ''1900'' rather than the year ''2000.'' '

The Association of Private Pension and Welfare Plans (APPWP) raised concerns regarding the language in the preamble to the proposed amendment which states that ''* * *'' plan fiduciaries must establish a contingency plan that will be implemented in the event that the plans' essential operations are affected.''[3] The APPWP is concerned that this language adds a new standard of liability for plan sponsors and other fiduciaries. Accordingly, the APPWP suggests that this sentence be restated as follows: ''[a]s in dealing with all situations in which plan operations could suffer some level of disruption, plan fiduciaries should consider whether to create a contingency plan to be implemented in the event that the plan's essential operations are affected by Y2K problems.''

The language in the preamble did not create a new fiduciary standard of care. The relevant standard of care is set forth in the Act at section 404(a)(1)(B) as follows:

> A fiduciary shall discharge his duties with respect to the plan * * * with the care, skill and diligence under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.

The preamble merely stated the Department's view that, given the well-documented risk that was associated with Y2K, a prudent person similarly situated would have established a contingency plan. The Department notes that the comprehensiveness of a particular contingency plan an employee benefit plan adopts would necessarily depend on the facts and circumstances of each case. Accordingly, the Department has determined not to adopt the suggested modification to the preamble.

In addition, the APPWP urged the Department to expand the relief under the amendment to include situations such as computer viruses, ''hacking,'' and other technological problems caused by human malfeasance that would impede benefits administration. In this regard, the Department does not believe it has sufficient information on the record at this time to provide additional relief. However, upon further demonstration that there is a need for lending of money to plans in such circumstances, the Department would be prepared to consider further relief.

Another commentator noted that the relief proposed is too restrictive and requested that the language be liberalized. Specifically, the commentator was concerned that the broad relief contemplated by the proposal may not be available if such relief is conditioned on the establishment by a plan fiduciary of a nexus between the cash shortfall and a specific disruption of computer operations. The commentator further stated that, given the rippling nature of Y2K problems, it may be impossible to determine the specific cause of a particular cash shortfall. Accordingly, the commentator urged the Department to modify the final exemption to provide that any cash shortfall incurred by a plan between November 1, 1999 and December 31, 2000, should be presumed to be related to a Y2K problem and, thus, eligible for relief under the final exemption. After reviewing the commentator's suggestion, the Department does not believe that the commentator has adequately demonstrated the need for such broad exemptive relief. Accordingly, the Department has determined not to adopt the commentator's suggestion.

The commentator also suggested that the three day repayment period for interest-free loans made for a purpose incidental to the ordinary operation of the plan be eliminated on a permanent basis. Alternatively, the commentator suggested that either: (1) The concept of ordinary operating expenses be amended to include investment transfers and participant loans; or (2) the three day requirement be amended to require repayment of such loans over a period of time that is materially longer than three days. The Department believes that consideration of the issues involved in amending PTE 80–26 as requested by the commentator are beyond the scope of the current proceeding. In this regard, the Department notes that, pursuant to the requirements of section 408(a) of the Act, it is required to offer interested persons an opportunity to present their views and an opportunity for a hearing prior to amending an exemption. Consequently, the Department has determined not to revise the final exemption in this regard.

Finally, the commentator requested that the Department clarify whether the three day repayment requirement for loans used for a purpose incidental to the ordinary operation of the plan refers to three business days or three calender days. According to the commentator, the adoption of ''T plus three'' as the normal settlement practice for securities trades means that the proceeds of a sale of securities will generally not be received until three business days after the trade is executed. Accordingly, to be consistent with the prevailing market practice, the commentator urged the Department to clarify that ''three days'' means three business days for purposes of PTE 80–26. In this regard, it is the view of the Department that the phrase

[2] Section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978, 5 U.S.C. App. 1 [1995]) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975 of the Code to the Secretary of Labor.

In the discussion of the exemption, references to section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[3] 64 FR 66667 (1999).

''three days'' as set forth in section I(b)(2) of PTE 80–26, as amended, means three business days, and the final exemption has been modified to make this clear.

Description of the Exemption

PTE 80–26 permits the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, and the repayment of such loan or other extension of credit in accordance with its terms or other written modifications thereof, provided that:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only:

(1) For the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan and periodic premiums under an insurance or annuity contract; or

(2) For a period of no more than three days, for a purpose incidental to the ordinary operation of the plan;

(c) The loan or extension of credit is unsecured; and

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan.

The amendment to PTE 80–26 granted pursuant to this notice temporarily broadens the availability of PTE 80–26 to include certain interest-free loans to be used for a purpose incidental to the ordinary operations of a plan which arise in connection with a Y2K problem, as defined in the amendment. The amendment to PTE 80–26 permits these loans to be repaid no later than December 31, 2000.

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 ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; 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 does not extend to transactions prohibited under section 406(b)(1) and (3) of the Act or section 4975(c)(1)(E) and (F) of the Code;

(3) In accordance with section 408(a) of the Act and 4975(c)(2) of the Code, the Department makes the following determinations:

(i) The amendment set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of plans;

(4) The amendment is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(5) The amendment is supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional 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.

Exemption

Accordingly, PTE 80–26 is amended under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR 2570, Subpart B (55 FR 32836, 32847, August 10, 1990), as set forth below:

Section I: General Exemption

Effective January 1, 1975, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, nor to the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only:

(1) For the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan and periodic premiums under an insurance or annuity contract; or

(2) For a period of no more than three business days, for a purpose incidental to the ordinary operation of the plan;

(c) The loan or extension of credit is unsecured; and

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan.

Section II: Temporary Exemption

Effective November 1, 1999 through December 31, 2000, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, nor to the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only for a purpose incidental to the ordinary operation of the plan which arises in connection with the plan's inability to liquidate, or otherwise access its assets or access data as a result of a Y2K problem.

(c) The loan or extension of credit is unsecured;

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan;

(e) The loan or extension of credit begins on or after November 1, 1999 and is repaid or terminated no later than December 31, 2000.

Section III: Definition

For the purposes of section II, a Y2K problem is a disruption of computer operations resulting from a computer system's inability to process data because such system recognizes years only by the last two digits, causing a ''00'' entry to be read as the year ''1900'' rather than the year ''2000.''

Signed at Washington, DC, this 28th day of March, 2000.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 00–8057 Filed 3–31–00; 8:45 am]

BILLING CODE 4510–29–P

MEDICARE PAYMENT ADVISORY COMMISSION

Notice of Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Thursday, April 13, 2000 and Friday, April 14, 2000 at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW, Washington, DC. The meeting is tentatively scheduled to begin at 10 a.m. on April 13, and 9 a.m. on April 14.

Topics for discussion include: payments to teaching hospitals and DRG refinement, improving quality assurance for institutional providers, financial performance and payment update for hospitals covered by PPS, hospital financial performance and payment update for facilities exempt from PPS, work plan on mandated study on medical savings accounts, improving payment policy for hospital outpatient departments and physicians' services, criteria for evaluating proposals to reform Medicare, prescription drug coverage issues, and an update on proposed refinements to the SNF PPS.

Agenda will be mailed on April 4, 2000. The final agenda will be available on the Commission's website (www.MedPAC.gov).

ADDRESSES: MedPAC's address is: 1730 K Street, NW, Suite 800, Washington, DC 20006. The telephone number is (202) 653–7220.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 653–7220.

SUPPLEMENTARY INFORMATION: If you are not on the Commission mailing list and wish to receive an agenda, please call (202) 653–7220.

Murray N. Ross,

Executive Director.

[FR Doc. 00–8068 Filed 3–31–00; 8:45 am]

BILLING CODE 6820–BW–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–321 and 50–366]

Southern Nuclear Operating Company, Inc., Edwin I. Hatch Nuclear Plant, Units 1 and 2, Notice of Acceptance for Docketing of the Application, and Notice of Opportunity for a Hearing Regarding Renewal of License, Nos. DPR–57 and NPF–5, for an Additional Twenty-Year Period

The U.S. Nuclear Regulatory Commission (the Commission) is considering an application for the renewal of Operating Licenses Nos. DPR–57 and NPF–5, which authorize Southern Nuclear Operating Company, Inc. (SNC) to operate Units 1 and 2 of the Edwin I. Hatch Nuclear Plant (Hatch 1 and Hatch 2, respectively), at 2,763 megawatts thermal. The renewed license would authorize the applicant to operate Hatch 1 and Hatch 2 for an additional 20 years beyond the period specified in the current licenses. The current operating licenses for Hatch 1 and Hatch 2 expire on August 6, 2014 and June 13, 2018, respectively.

SNC submitted an application to renew the operating licenses for Hatch 1 and Hatch 2 on March 1, 2000. A Notice of Receipt of Application, ''Southern Nuclear Operating Company, Inc., Edwin I. Hatch Nuclear Plant, Units 1 and 2; Notice of Receipt of Application for Renewal of Facility Operating License Nos. DPR–57 and NPF–5, for an Additional Twenty-Year Period,'' was published in the **Federal Register** on March 10, 2000 (65 FR 13061).

The Commission's staff has determined that SNC has submitted information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is complete and acceptable for docketing. The current Docket Nos. 50–321 for Operating License No. DPR–57 and 50–366 for Operating License No. NPF–5, will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of the requested license renewal, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license on the basis of its review and findings that actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB) and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' (May 1996). Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice. The Commission also intends to hold public meetings to discuss the license renewal process and the schedule for conducting the review. The Commission will provide prior notice of these meetings. As discussed further herein, in the event that a hearing is held, issues that may be litigated will be confined to those pertinent to the foregoing.

By 30 days after publication date, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the license renewal in accordance with the provisions of 10 CFR 2.714. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20037. If a request for a hearing or a petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request(s) and/or petition(s), and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing or a petition for leave to intervene is filed by the above date, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR Parts 54 and 51, renew the license without further notice.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR Parts 54 and 51. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the board up to 15 days before the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days before the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Requests for a hearing and petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington DC 20037, by the above date. A copy of the request for a hearing and the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. H.L. Sumner, Vice President—Hatch Project, Southern Nuclear Operating Company, Inc. 40 Inverness Center Parkway, P.O. Box 1295, Birmingham, AL 35201–1295.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

Detailed information about the license renewal process can be found under the nuclear reactors' icon of the NRC's Web page <http://www.nrc.gov>.

A copy of the application to renew the Hatch 1 and Hatch 2 licenses is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20037, and on the NRC's Web page <http://www.nrc.gov>. In addition, the Appling County Library, 242 East Parker Street, Baxley, Georgia 31513, has agreed to make a copy of the application and related information available to the public.

Dated at Rockville, Maryland, this 23rd day of March 2000.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Acting Chief, License Renewal and Standardization Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 00–8108 Filed 3–31–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Request For Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:
- Rule 17f–1, SEC File No. 270–236, OMB Control No. 3235–0222
- Form N–17f–1, SEC File No. 270–316, OMB Control No. 3235–0359
- Rule 17f–2, SEC File No. 270–233, OMB Control No. 3235–0223
- Form N–17F–2, SEC File No. 270–317, OMB Control No. 3235–0360

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is publishing for public comment the following summaries of previously approved information collection requirements. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17f–1 under the Investment Company Act of 1940 (the ''Act'') is entitled: ''Custody of Securities with Members of National Securities Exchanges.'' Rule 17f–1 provides that any registered management investment company (''fund'') that wishes to place its assets in the custody of a national securities exchange member may do so only under a written contract that must be ratified initially and approved annually by a majority of the fund's board of directors. The written contract also must contain certain specified provisions. In addition, the rule requires an independent public accountant to examine the fund's assets in the custody of the exchange member at least three times during the fund's fiscal year. The rule requires the written contract and the certificate of each examination to be transmitted to the Commission. The purpose of the rule is to ensure the safekeeping of fund assets.

Commission staff estimates that approximately five funds maintain their assets with a national securities exchange number.[1] The annual burden of the rule's requirements is estimated to be approximately 4.5 hours for each of these funds.[2] Commission staff

[1] The Commission's records show that five funds filed Form N–17f–1 during calendar year 1999.

[2] The Commission staff estimates, based upon the experience of staff familiar with the information collection requirements of the rule, that each fund spends approximately 4.5 hours annually in complying with the rule's requirements: 4 hours of

estimates the total annual burden for all funds is 22.5 hours.

Compliance with the collection of information required by rule 17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange. Responses will not be kept confidential.

Form N–17f–1 is entitled: ''Certificate of Accounting of Securities and Similar Investments of a Management Investment Company in the Custody of Members of National Securities Exchanges.'' Form N–17f–1 is the cover sheet for accountant examination certificates filed under rule 17f–1 of the Act. Rule 17f–1 requires the accountant's certificate of each examination be attached to Form N–17f–1 and transmitted to the Commission promptly after each examination. The form facilitates the filing of the accountant's certificate, and increases the accessibility of the certificate to both Commission's staff and interested investors.

Commission staff estimates that approximately five funds maintain their assets with a national securities exchange member. The annual burden of the rule's requirements is estimated to be approximately 27 minutes for each of these funds.[3] The total annual burden for all funds is therefore estimated to be 2.25 burden hours.

Compliance with the collection of information required by Form N–17f–1 is mandatory for funds that place their assets in the custody of a national securities exchange member.

Rule 17f–2 under the Act is entitled: ''Custody of Investments by Registered Management Investment Company.'' Rule 17f–2 establishes safeguards for arrangements in which a registered management investment company is deemed to maintain custody of its own assets, such as when the funds maintains its assets in a facility that provides safekeeping but not custodial services. The rule includes several recordkeeping or reporting requirements. The fund's directors must prepare a resolution designating not more than five fund officers or responsible employees who may have access to the fund's assets. The designated access persons (two or more of whom must act jointly when handling fund assets) must prepare a written notation providing certain information about each deposit or withdrawal of fund assets, and must transmit the notation to another officer or director designed by the directors. Independent public accountants must verify the fund's assets at least three times a year, and two of the examinations must be unscheduled.

The requirement that directors designate access persons is intended to ensure that directors evaluate the trustworthiness of insiders who handle fund assets. The requirements that access persons act jointly in handling fund assets, prepare a written notation of each transaction, and transmit the notation to another designated person are intended to reduce the risk of misappropriation of fund assets by access persons, and to ensure that adequate records are prepared, reviewed by a responsible third person, and available for examination by the Commission. The requirement that auditors verify fund assets without notice twice each year is intended to provide an additional deterrent to the misappropriation of fund assets and to detect any irregularities.

Commission staff estimates that approximately 204 funds rely upon the rule (and that each fund offers an average of two separate series or portfolios subject to the rule).[4] Commission staff estimates that each fund spends approximately 2 hours annually in drafting resolutions by directors, 24 hours annually in preparing transaction notations, and 100 hours annually assisting independent public accountants perform unscheduled verifications of assets.[5] The total annual burden of the rule's paperwork requirements thus is estimated to be 25,704 hours. This represents an increase of 10,844 hours from a prior estimate of 13,860 hours, based on an increase in the number of funds relying on the rule from 110 to 204 funds.

Form N–17f–2 is entitled ''Certificate of Accounting of Securities and Similar Investments in the Custody of Management Investment Companies.'' Form N–17f–2 is the cover sheet for the accountant examination certificates filed under rule 17f–2 of thee Act by registered management investment companies maintaining custody of securities or other investments. Form N–17f–2 facilitates the filing of the accountant's examination certificates. The use of the form allows the certificates to be filed electronically, and increases the accessibility of the examination certificates to both the Commission's examination staff and interested investors by ensuring that the certificates are filed under the proper SEC file number and the correct name of a fund.

Commission staff estimates that approximately 204 funds rely on rule 17f–2, and therefore, file Form N–17f–2 with the Commission. A fund relying on rule 17f–2 must file the form with the Commission at least three times a year. Commission staff estimates that each funds spends approximately nine minutes (0.15 hours) preparing each response on Form N–17f–2.[6] Therefore, the total annual burden of Form N–17f–2's annual paperwork requirements is estimated to be approximately 92 hours,[7] an increase of 72 hours from the prior estimate of 20 hours. The increase in the annual hour burden is primarily attributable to the increase in the number of respondents from 130 funds to 204 funds.[8]

Complying with the collection of information requirements of the rule is mandatory for those funds that maintain custody of their own assets. The information provided to the Commission by the fund's independent public accountants about each verification of the fund's assets will not be kept confidential.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

The Commission requests written comments on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including

clerical time (1 hour to prepare the custodial contract for board review and to transmit the contract, and 1 hour to transmit of the accountant's certificates three times yearly) and 0.5 hours for the board of directors to ratify the custodial contract.

[3] Commission staff estimates that it takes approximately 9 minutes of clerical time to prepare each Form N–17f–1. This estimate is based on Commission staff members filling out the Form N–17f–1. Each fund is required to file Form N–17f–1 three times annually, for an average hour burden per fund of 27 minutes.

[4] A fund relying upon rule 17f–2 is required to file Form N–17f–2 with the Commission three times yearly. The Commission's records indicate that approximately 204 funds filed Form N–17f–2 with the Commission during calendar year 1999.

[5] Each of these hour burden estimates is based upon conversations with attorneys and accountants familiar with the information collection requirements of the rule.

[6] This estimate is based on the experience of members of the Commission staff in completing Form N–17f–2.

[7] This estimate is based on the following calculation: 204 (respondents) × 3 (responses per fund per year) × 0.15 (hours per response) = 91.8 burden hours.

[8] The estimate of the hour burden per fund per response remains 9 minutes for each Form N–17f–2 filed with the Commission. The prior annual hour burden estimate was based on a calculation of 0.05 hours (which equals 3 minutes) instead of 0.15 hours (9 minutes). The annual hour burden for Form N–17f–2 has, therefore, increased by only 42.3 burden hours if the prior annual hour burden is recalculated: 110 (respondents) × 3 (responses per respondent per year) × 0.15 (hours per response) = 49.5 burden hours.

whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: March 27, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–8069 Filed 3–31–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24368; 812–11790]

Sun Capital Advisers Trust and Sun Capital Advisers, Inc.; Notice of Application

March 27, 2000.

AGENCY: Securities and Exchange Commission. (''Commission'')

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

Summary of Application: The requested order would permit applicants, Sun Capital Advisers Trust (the ''Trust'') and Sun Capital Advisers, Inc. (the ''Adviser''), to enter into and materially amend investment subadvisory agreements without obtaining shareholder approval.

Filing Dates: The application was filed on September 29, 1999, and amended on January 18, 2000. Applicants have agreed to file an additional 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 April 21, 2000, and should be accompanied by proof of service on the applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the 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, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609; Applicants, One Sun Life Executive Park, Wellesley Hills, MA 02481–5699.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, 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, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. The Trust, a Delaware business trust, is registered under the Act as an open-end management investment company. The Trust is comprised of six separate series, each with its own distinct investment objectives, policies, and restrictions (each, a ''Fund'').[1] Each Fund's shares are continually offered for sale as funding vehicles for variable annuity and variable life insurance contracts issued by participating insurance companies and for qualified pension plans.

2. The Adviser, an indirect wholly-owned subsidiary of Sun Life Assurance Company of Canada (''Sun Life''), is registered under the Investment Advisers Act of 1940 (''Advisers Act''). The Trust, on behalf of each fund, has entered into investment advisory agreements with the Adviser (each, an ''Advisory Agreement''), pursuant to which the Adviser serves as the investment adviser to the Funds. Each Advisory Agreement has been approved by the Funds' initial shareholder, Sun Life, and by a majority of the Trust's board of trustees (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust or the Adviser (''Independent Trustees'').

3. Under the Advisory Agreements, the Adviser, subject to Board oversight, provides each Fund with investment research, advice, and supervision, and furnishes an investment program for each Fund. The Advisory Agreements also provide that the Adviser may delegate its responsibility for providing investment advice and making investment decisions for a particular Fund to one or more subadvisers (''Subadvisers''). The Adviser selects Subadvisers based on the Adviser's continuing evaluation of their skills in managing assets pursuant to particular investment styles. The Adviser screens potential new Subadvisers and engages in an on-going analysis of the continued advisability as to the retention of its existing Subadvisers. From time to time, the Adviser may recommend to the Board that the services of a Subadviser be terminated. Each Fund pays the Adviser a fee for its services based on the Fund's average daily net assets.

4. The Adviser has entered into investment subadvisory agreements (''Subadvisory Agreements'') with Wellington Capital Management LLC (''Wellington'') to serve as Subadviser to three of the Funds. Wellington is not an ''affiliated person,'' as defined in section 2(a)(3) of the Act (''Affiliated Person''), of the Trust or the Adviser. The Trust may in the future offer Funds managed by other Subadvisers or by multiple Subadvisers. Each Subadviser will have discretionary authority to invest the assets of a particular Fund, subject to general supervision by the Adviser and the Board, and will be registered under the Advisers Act or exempt from registration. The Adviser pays each Subadviser's fees out of the fees the Adviser receives from each Fund.

5. Applicants request relief to permit the Adviser to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to a Subadviser that is an Affiliated Person of the Trust or the Adviser, other than by reason of serving as a Subadviser to one or more of the Funds (''Affiliated Subadviser'').

Applicant's Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written

[1] Applicants also request relief with respect to future Funds and any other registered open-end management investment company and its series that in the future: (a) Is advised by the Adviser, or a person controlling, controlled by or under common control with the Adviser; (b) operates in substantially the same manner as the Funds with regard to the Adviser's responsibility to select, evaluate, and supervise Subadvisers; and (c) complies with the terms and conditions in the application (''Future Funds''). The only existing registered open-end management investment company that currently intends to rely on the order is named as an applicant

contract approved by a majority of the investment company's outstanding voting shares. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the Commission to exempt persons or transactions from the provisions of the Act, or from any rule thereunder, to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants request an exemption under section 6(c) of the Act from section 15(a) of the Act and rule 18f–2 under the Act to permit them to enter into and materially amend Subadvisory Agreements without shareholder approval.

3. Applicants assert that a Fund's investors rely on the Adviser to select and monitor Subadvisers best suited to manage the Fund's portfolio. Applicants submit that, from the perspective of an investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment company advisory firms. Applicants contend that requiring shareholder approval of Subadvisory Agreements would impose expenses and unnecessary delays on the Funds, and may preclude the Adviser from promptly acting in a manner considered advisable by the Board. Applicants note that the Advisory Agreements will remain subject to section 15(a) of the Act and rule 18f–2 under the Act, including the requirements for shareholder approval.

Applicant's Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the order requested in the application, the operation of the Fund's in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account), as defined in the Act, or by its initial shareholder, provided that, in the case of the approval by the initial shareholder, the pertinent Fund's shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, the unitholders of the sub-account) purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below. Similarly, before a Future Fund may rely on the order requested in the application, the operation of the Future Fund in the manner described in the application will be approved by its initial shareholder before a public offering of shares of such Future Fund, provided that shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, the unitholders of the sub-account) purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below.

2. Each Fund will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Adviser has the ultimate responsibility to oversee the Subadvisers and recommend their hiring, termination and replacement.

3. At all times, a majority of the board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then-existing Independent Trustees.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without the agreement, including the compensation be paid thereunder, being approved by the shareholders of the applicable Fund (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unit holders of the sub-account).

5. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that the change is in the best interests of the Fund and its shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, the best interests of the Fund and unit holders of any such sub-account), and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any new Subadviser for any Fund, the Fund shareholders (or, if the Fund serves as a funding medium for any sub-account of a registered separate account, the unit holders of the sub-account) will be furnished all relevant information about a new Subadviser that would be contained in a proxy statement, including any change in such disclosure caused by the addition of a new Subadviser. Each Fund will meet this condition by providing shareholders (or unit holders) with an information statement meeting the disclosure requirements of Regulations 14C, Schedule 14C, and Item 22 of Schedule 4A under the Securities Exchange Act of 1934 within 90 days of the hiring of a Subadviser.

7. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's portfolio, and, subject to review and approval by the Board, will: (i) Set the Fund's overall investment strategies; (ii) select Subadviser(s); (iii) monitor and evaluate the performance of Subadviser(s); (iv) ensure that the Subadviser(s) comply with each Fund's investment objectives, polices and restrictions by, among other things, implementing procedures reasonably designed to ensure compliance; and (b) allocate and, where appropriate, reallocate a Fund's assets among its Subadvisers when a Fund has more than one Subadviser.

8. No trustee or officer of the Trust or director or officer of the Adviser will own, directly or indirectly (other than through a pooled investment vehicle that is not controlled by that trustee, director or officer), any interest in a Subadviser, except for: (i) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under a common control with the Adviser; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Subadviser or any entity that controls, is controlled by, or is under common control with a Subadviser.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–8070 Filed 3–31–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

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 meetings during the week of April 3, 2000.

An open meeting will be held on Wednesday, April 5, 2000 at 10:00 a.m. in Room 6600.

The subject matters of the open meeting scheduled for Wednesday, April 5, at 10:00 a.m. in Room 6600 will be:

(1) The Commission will consider whether to propose rule amendments and new rules to (i) require investment advisers to submit their investment adviser filings on an electronic filing system, currently being developed by the Commission and the state securities authorities; (ii) substantially update and revise Form ADV to accommodate electronic filing; and (iii) require advisers to deliver to clients a narrative brochure written in plain English. The Commission and the state securities authorities are creating an Internet-based system of electronic filing for investment advisers. The system is called the Investment Adviser Registration Depository (IARD) and will permit investment advisers to satisfy filing obligations under state and federal laws by making a single electronic filing. Information contained in filings made through the IARD will be stored in a database that members of the public will be able to access free of charge through the Internet. The IARD is being built and will be operated for the Commission by NASD Regulation, Inc. (NASDR). For further information, please contact: Lori H. Price at (202) 942–0716.

(2) The Commission will hear oral argument on appeals by Marc N. Geman and the Division of Enforcement from an administrative law judge's initial decision imposing sanctions on Geman. For further information, contact Kermit Kennedy at (202) 942–0950.

Closed meetings will be held on Wednesday, April 5, 2000, following the 10:00 a.m. open meeting and on Thursday, April 6, 2000 at 11:00 a.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 Unger, 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 Wednesday, April 5, 2000, following the 10:00 a.m. open meeting, will be: Post oral argument discussion.

The subject matter of the closed meeting scheduled for Thursday, April 6, 2000, at 11:00 a.m. will be: Institution and settlement of injunctive actions; and 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: March 29, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–8216 Filed 3–30–00; 11:36 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Enterprises Solutions, Inc.; Order of Suspension of Trading

March 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Enterprises Solutions, Inc., trading under the stock symbol EPSO.OB. Questions have been raised concerning the accuracy and completeness of assertions made by Enterprises Solutions, Inc. in its filings with the Commission, in its recent press releases, and on its Internet website, including questions about the identity of persons in control of the operations and management of the company.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EST, March 30, 2000 through 11:59 p.m. EDT, on April 12, 2000.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–8225 Filed 3–30–00; 11:54 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Culturally Significant Objects Imported for Exhibition; Determinations: ''The Forgotten Friezes From the Castle of Velez Blanco''

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985, 22 U.S.C. 2459], the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681 *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999, as amended by Delegation of Authority No. 236–1 of November 9, 1999, I hereby determine that the objects to be included in the exhibit, ''The Forgotten Friezes from the Castle of Velez Blanco,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, NY, from on or about May 11, 2000, to on or about January 7, 2001, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is Room 700, United States Department of State, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: March 24, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 00–8051 Filed 3–31–00; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2000–7146]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of

the Coastwise Trade Laws for the Vessel A QUIT-ALL.

SUMMARY: As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S. build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before May 3, 2000.

ADDRESSES: Comments should refer to docket number MARAD–2000–7146. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., S.W., Washington, D.C. 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR 832 Room 7201, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: Title V of Pub.L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (less than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commentor's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name: A QUIT-ALL, owner: Pescado Rentado, Inc., a Florida corporation (incorporated 1979).

(2) Size, capacity and tonnage of vessel: Length Overall: 44′, Tonnage: Gross 33, Net 26 (Pursuant to Coast Guard Document #528959).

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''Sportfishing charter from Jupiter Inlet south to Key West and adjacent waters.''

(4) Date and place of construction and (if applicable) rebuilding. Date of construction: 1980. Place of original construction: Norway.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''This waiver will not have an impact on other commercial passenger vessel operators who offer offshore sportfishing/cruising charters. There are approximately 40 sportfishing charter services which advertise regularly in the Southern Bell Telephone Yellow Pages, for the Greater Miami area. Existing offshore sportfishing charter boats charge between $350.00 (half-day) to $750.00 (full day). This requested waiver will compliment existing offshore charter operations, as the intent is to focus on obtaining longer than one-day charters, including overnight stays and entertaining on the vessel.

The Greater Miami/Fort Lauderdale area continues to have significant tourist, family vacation, and convention business. Granting this administrative waiver will enable the commercial sport fishing industry to better meet the demands of tourists as it expands even more rapidly. This waiver will also create U.S. jobs: 1 boat captain, 1 mate and several (at least part time) support staff from clerical to boat cleaners. In addition, being able to put this vessel into charter sport fishing will require weekly expenditure for bait, tackle, supplies and products necessary to run and maintain a high quality charter operation. Overall, the local economy will be helped by the granting of this waiver.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''This waiver will have no negative impact on U.S. Shipyards. There is no comparable sportfishing vessel (44′ Aluminum Hull) currently being manufactured and applicant is unaware of any plans for similar production within the United States.

All future repairs, improvements and upgrades will continue to be undertaken at U.S. (South Florida) shipyards and marinas. Consequently, this vessel will continue to have a positive effect on South Florida (Fort Lauderdale/Miami area) shipyards for routine maintenance and twice-yearly bottom painting, in addition to future refurbishing and refitting. Once in charter use as a working sport fisherman, monthly—if not weekly—maintenance and repairs will become necessary, hence local area shipyards and marinas will benefit.''

Dated: March 28, 2000.

By Order of the Maritime Administrator.

Edmund T. Sommer, Jr.,

Acting Secretary, Maritime Administration.

[FR Doc. 00–8131 Filed 3–31–00; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Domestic Finance; Notice of Open Meeting of the Advisory Committee U.S. Community Adjustment and Investment Program

The Department of the Treasury, pursuant to the North American Free Trade Agreement (''NAFTA'') Implementation Act (Pub. L. 103–182) (the ''Act''), established an advisory committee (the ''Advisory Committee'') for the community adjustment and investment program (the ''Program'') authorized by the Act. The Program provides financing to create or preserve jobs in communities adversely impacted by NAFTA. The charter of the Advisory Committee has been filed in accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463), with the approval of the Secretary of the Treasury.

The Advisory Committee consists of nine members of the public, appointed by the President, who collectively represent: (1) Community groups whose constituencies include low-income families; (2) scientific, professional, business, nonprofit, or public interest organizations or associations, which are neither affiliated with, nor under the direction of, a government; and (3) for-profit business interests. There is

currently one vacancy in the Advisory Committee.

The objectives of the Advisory Committee are to: (1) Provide informed advice to the President regarding the implementation of the Program; and (2) review on a regular basis, the operation of the Program, and provide the President with the conclusions of its review. Pursuant to Executive Order No. 12916, dated May 13, 1994, the President established an interagency Finance Committee to implement the Program and to receive, on behalf of the President, advice of the Advisory Committee. The Finance Committee is chaired by the Secretary of the Treasury or his designated representative.

A meeting of the Advisory Committee, which will be open to the public, will be held in Washington, D.C. at the Marriott Hotel at Metro Center, 775 12th Street, NW, Washington, D.C. 20005 (Tel. 202–737–2200) from 9 a.m. to 4 p.m. on Tuesday, April 25, 2000. The exact location of the meeting room will be posted in the hotel lobby on the day of the meeting. The meeting room will accommodate approximately 50 persons and seating is available on a first-come, first-serve basis, unless space has been reserved in advance. Due to limited seating, prospective attendees are encouraged to contact the person listed below prior to April 14, 2000.

The purpose of the meeting is to review the operations of the Program, and to provide the Finance Committee with advice regarding the conclusions of its review and other implementation issues. Specifically, the meeting would review the recent status of, and anticipated activities of, the three Program components, namely, the federal agency program, the direct loan program, and the grant program.

If you would like to have the Advisory Committee consider a written statement, material must be submitted to the U.S. Community Adjustment and Investment Program, Advisory Committee, Department of the Treasury, 1500 Pennsylvania Avenue, NW, South Court 17–B, Washington, D.C. 20220 no later than April 7, 2000. If you have any questions, please call Dan Decena at (202) 622–0637 (Please note that this telephone number is not toll-free.)

Harry M. Haigood,

Deputy Assistant Secretary, Government Financial Policy.

[FR Doc. 00–8121 Filed 3–31–00; 8:45 am]

BILLING CODE 4810–25–U

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Community Development Financial Institutions Fund (the Fund) within the Department of the Treasury is soliciting comments concerning the Bank Enterprise Award (BEA) Program.

DATES: Written comments should be received on or before June 2, 2000 to be assured of consideration.

ADDRESSES: Direct all comments to Jeannine Jacokes, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW. Suite 200 South, Washington, DC 20005, Fax number (202) 622–7754.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW. Suite 200 South, Washington, DC 20005, or call (202) 622–8662.

SUPPLEMENTARY INFORMATION:

Title: Bank Enterprise Award Program Survey.

OMB Number: 1559–0008.

Abstract: The purpose of the Community Development Banking and Financial Institutions Act of 1994 (Act) was to create the Fund to promote economic revitalization and community development through investment in and assistance to Community Development Financial Institutions (CDFIs). The Fund's BEA Program helps achieve this purpose through an incentive system for insured depository institutions to, among other things, increase their lending to and investment in CDFIs by rewarding participating institutions with awards.

Current Actions: The Fund plans to survey BEA awardees in order to measure the effects of the BEA Program on insured depository institution community development activities.

Type of review: Extension.

Affected Public: Insured depository institutions

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 50 hours.

Requests for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Authority: 12 U.S.C. 1834a, 4701, 4704, 4713; 12 CFR part 1806.

Dated: March 28, 2000.

Maurice A. Jones,

Deputy Director for Policy and Programs, Community Development Financial Institutions Fund.

[FR Doc. 00–8048 Filed 3–31–00; 8:45 am]

BILLING CODE 4810–70–M

DEPARTMENT OF THE TREASURY

Customs Service

General Program Test for Transfer of Accompanied (International) In-Transit Baggage

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice extends the time period for applying to participate in the general program test for the transfer of accompanied, international in-transit baggage.

DATES: To participate in the test, applicants have until close of business on May 26, 2000, to file the required information with Customs.

ADDRESSES: To apply for participation in the test, air carriers must timely submit to the appropriate port director (having jurisdiction over the airport

involved) a written statement of intent to comply with the requirements of the test program.

FOR FURTHER INFORMATION CONTACT: For information relative to the test program and the application to participate: Steve A. Gilbert, Office of Field Operations (202) 927–1391.

SUPPLEMENTARY INFORMATION:

Background

On February 23, 2000, Customs published in the **Federal Register** (65 FR 9054) a notice announcing a general program test for the transfer of accompanied, international in-transit baggage. The notice announced the eligibility requirements for participation in the test, described the information transmission and baggage processing procedures required of participant air carriers, and set forth that applications to participate must be filed on or before March 24, 2000. Comments were also requested, to be submitted to Customs on or before the same date.

Customs anticipates issuance of another notice regarding the test program to announce any changes in the test that might be warranted after Customs evaluates the comments received and reconsiders the test program in light thereof.

This notice announces that the time period for applying to participate in the test has been extended to May 26, 2000.

Dated: March 29, 2000.

Robert J. McNamara,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 00–8140 Filed 3–31–00; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 103–446, gives notice that a meeting of the Advisory Committee on Minority Veterans will be held from Monday, April 17, 2000 to Wednesday, April 19, 2000, in Washington, DC. The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of Veterans Affairs on the administration of VA benefits and services to minority veterans; to assess the needs of minority veterans and to evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

The meeting will convene in room 230, VA Central Office (VACO) Building, 810 Vermont Avenue, NW, Washington, DC, from 8:30 A.M. to 5:00 P.M. On April 17, the Committee will focus on such health care issues as HIV/AIDS, Hepatitis C, Post Traumatic Stress Disorder, and medical research. On Tuesday, April 18, the Committee will concentrate its efforts on veterans' employment and training issues, the cardiac care program evaluation, and the Veterans' Benefits Administration's Road Map to Excellence. The Committee will work in Subcommittees in the afternoon session. On Wednesday, April 19, the Committee will examine several diversity training programs and will begin drafting its annual report for Fiscal Year 2000. These sessions will be open to the public. It will be necessary for those wishing to attend the meeting to contact Mr. Anthony T. Hawkins, Department of Veterans Affairs, at (202) 273–6708, before April 16, 2000. No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments from interested parties on issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

Dated: March 24, 2000.

By Direction of the Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–8071 Filed 3–31–00; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 65, No. 64

Monday, April, 3, 2000

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 HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Minority Health; Availability of Funds for Grants for the Bilingual/ Bicultural Service Demonstration Grant Program

Correction

In notice document 00–6897 beginning on page 15159, in the issue of Tuesday, March 21, 2000, make the following correction:

On page 15161, in the first column, in the fourth line, ''not'' should be added after ''will''.

[FR Doc. C0–6897 Filed 3–31–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301 and 1308

Schedules of Controlled Substances: Addition of Gamma–Hydroxybutyric Acid to Schedule I

Correction

In rule document 00–5925 beginning on page 13235, in the issue of Monday, March 13, 2000, make the following corrections:

1. On page 13237, in the third column, in paragraph 6., in the third line, ''§§1394,21–1394,23'' should read ''§§1304.21–1304.23''.

2. On the same page, in the same column, in prargraph 10., in the first line, ''*Important*'' should read ''*Importation* ''.

[FR Doc. C0–5925 Filed 3–31–00; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG19

List of Approved Spent Fuel Storage Casks; Revision, NUHOMS 24–P and NUHOMS 52–B

Correction

In rule document 00–7431 beginning on page 16299 in the issue of March 28, 2000, make the following corrections:

§72.214 [Corrected]

1. On page 16302, in the second column, in the fifth line, ''Amendment No. 0 is applicable for casks manufactured before [insert effective date of final rule].'' should read ''Amendment No. 0 is applicable for casks manufactured before April 27, 2000.''

2. On the same page, in the same column, in the eighth line, ''Amendment No. 1 is applicable for casks manufactured after [insert effective date of final rule].'' should read ''Amendment No. 1 is applicable for casks manufactured after April 27, 2000.''

[FR Doc. C0–7431 Filed 3–31–00; 8:45 am]

BILLING CODE 1505–01–D

The President

3 CFR

Proclamation 7283 of March 24, 2000

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2000

Correction

In Presidential document 00–7900 beginning on page 16509 in the issue of March 29, 2000, the date of the proclamation shoud read as above.

[FR Doc. C0–7900 Filed 03–31–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
April 3, 2000

Part II

Federal Trade Commission

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule"); Final Rule

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''the Commission'') grants manufacturers of residential appliances covered by its Appliance Labeling Rule (''the Rule'') a conditional exemption from the Rule's prohibition against the inclusion of non-required information on the EnergyGuide labels required by the Rule. The exemption enables appliance manufacturers to place the logo of the Department of Energy's (''DOE'') and Environmental Protection Agency's (''EPA'') joint ''ENERGY STAR'' Program on required EnergyGuides on some appliances under certain conditions. The Commission also announces a non-substantive amendment to the Rule to include ''Federal Trade Commission'' on all EnergyGuide labels so consumers and others will be clear as to the identity of the agency with the authority to enforce the Rule.

DATES: Effective: February 25, 2000. Manufacturers may avail themselves of the conditional exemption as of February 25, 2000. Manufacturers must begin to include the new language identifying the Federal Trade Commission on labels as soon as they print new labels.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, Division of Enforcement, Rm 4616, Federal Trade Commission, Washington, DC 20580 (202–326–3035; jmills@ftc.gov).

SUPPLEMENTARY INFORMATION:

I. Background

A. The Commission's Appliance Labeling Rule

The Commission issued the Appliance Labeling Rule, 44 FR 66466 (Nov. 19, 1979), pursuant to a directive in section 324 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6294 (''EPCA'')). The Rule requires manufacturers to disclose energy information about certain major household appliances (''covered appliances'') to enable consumers purchasing appliances to compare the energy use or efficiency of competing models. The Rule initially applied to eight appliance categories: refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. Subsequently, the Commission expanded the Rule's coverage five times: In 1987 (central air conditioners, heat pumps, and certain new types of furnaces); 1989 (fluorescent lamp ballasts); 1993 (certain plumbing products); and twice in 1994 (certain lighting products, and pool heaters and certain other types of water heaters).

Manufacturers of all covered appliances must disclose specific energy consumption or efficiency information at the point of sale in the form of an EnergyGuide label that is affixed to the covered product.[1] Manufacturers must derive this information from standardized tests that EPCA directs DOE to develop.[2] Required labels for appliances and required fact sheets for heating and cooling equipment must include an energy consumption or efficiency disclosure and a ''range of comparability'' bar that shows the highest and lowest energy consumption or efficiencies for all similar appliance models. Labels for refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, water heaters, and room air conditioners also must contain a secondary disclosure of estimated annual operating cost based on a specified national average cost for the fuel the appliances use. The Rule prescribes specifications for the size and colors of the EnergyGuides and for the size and style of the type to be used in the required disclosures. Sample labels appear as appendices to the Rule. The Rule also prohibits the inclusion of non-required information on the EnergyGuide to ensure that such information does not detract from the required information:

> No marks or information other than that specified in this part shall appear on or directly adjoining this label, except a part or publication number identification may be included on this label, as desired by the manufacturer, and the energy use disclosure labels required by the governments of Canada or Mexico may appear directly adjoining this label, as desired by the manufacturer. * * *[3]

16 CFR 305.11(a)(5)(i)(K).

DOE and EPA staff and an appliance manufacturer[4] have requested that the Commission grant a conditional exemption from this prohibition against non-required information that would allow the placement of the DOE/EPA ENERGY STAR logo on the EnergyGuides on qualifying appliances.

B. The ENERGY STAR Program

1. Description of the Program

Section 127 of the Energy Policy Act of 1992[5] directed DOE, in conjunction with EPA, utilities, and appliance manufacturers, to submit a report to Congress assessing the potential for the development and commercialization of appliances that are substantially more efficient than required by state or federal law,[6] and that are likely to be cost-effective for consumers. The appliances contemplated in the directive include those covered by the Commission's Appliance Labeling Rule. The report, which DOE submitted to Congress in April, 1995, concluded in part that the involvement of the federal government in ''market transformation'' programs could have a positive effect on consumer purchasing decisions regarding higher efficiency products.

Following the report, DOE began to develop a program—originally called the ENERGY SAVER Program—to promote high efficiency household appliances and water heaters in the U.S. marketplace. Concurrently, EPA was developing a similar program—the ENERGY STAR Program—in response to

[1] The information on the EnergyGuide also must appear in catalogs from which covered products can be ordered. Manufacturers of furnaces, central air conditioners, and heat pumps also must either provide fact sheets showing additional cost information or be listed in an industry directory that shows the cost information for their products.

[2] Section 323 of EPCA (42 U.S.C. 6293) directs DOE to develop test procedures to be used by appliance manufacturers to determine their products' compliance with DOE's standards. Section 324(c)(1)(A) of EPCA (42 U.S.C. 6294(c)(1)(A)) states that the Commission's Rule must require disclosure on labels of energy use information derived from the DOE test procedures.

[3] The language in this section pertains to labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, and room air conditioners. Identical language appears in two other sections relating to labels for furnaces and pool heaters, 16 CFR 305.11(a)(5)(ii)(I), and central air conditioners and heat pumps, 16 CFR 305.11(a)(5)(iii)(H)(*1*). The statute itself (EPCA) does not prohibit the inclusion of non-Rule-required information on the EnergyGuide.

[4] The Maytag Company, by petition dated July 25, 1997.

[5] Pub. L. 102–486, 106 Stat. 2776, 2835 (Oct. 24, 1992).

[6] In this context, ''federal law'' includes DOE's minimum efficiency standards for appliances, which Congress directed DOE to issue in section 325 of EPCA (42 U.S.C. 6295). As amended, the statute itself set the initial national energy efficiency standards for appliances and established a schedule for regular DOE review of the standards for each product category. The statute directed DOE to design these standards to achieve the maximum improvement in energy efficiency for residential appliances that is technologically feasible and economically justified. 42 U.S.C. 6265(o)(2). In accordance with the statutory directive, DOE regularly reviews the established standards and publishes new standards where appropriate. DOE's rules relating to standards, like its test procedure rules, are codified at 10 CFR part 430 (1999).

a directive in section 103(g) of the Clean Air Act, 42 U.S.C. 7403(g), that encompassed home heating and cooling equipment (''HVAC equipment''). EPA also developed ENERGY STAR Programs for lighting products, consumer electronics, office equipment, and home insulation products. Ultimately, the two programs for appliances and HVAC equipment were merged into a single program under the ENERGY STAR name. An ENERGY STAR logo can be used by Program participants in connection with qualifying products directly on the product itself or on an ENERGY STAR label or fact sheet associated with or attached to the product or used in promotional materials or advertising. The logo indicates significantly better energy performance than some specified norm (DOE's minimum efficiency standards, in the case of appliances and HVAC equipment), or indicates the incorporation of a specific energy saving feature on the product.

The Program is a partnership among DOE, EPA, product manufacturers, major national, regional, and local retailers, utilities, state energy offices, industry trade associations and the financial community. The Program's intent is to increase consumer interest in purchasing highly efficient appliances and heating and cooling equipment (as well as other building products) through promotional programs (including national and regional advertising), lower interest financing, product labeling, sales training, and consumer education.

The appliance products that are (or will be) included in DOE's component of the Program are: refrigerator-freezers, dishwashers, clothes washers, room air conditioners, and water heaters. HVAC equipment has been included since 1995 in EPA's earlier version of the ENERGY STAR Program, and there is already a mechanism in place for designating qualifying HVAC products by means of separate labels, as well as in advertising and promotional materials. EPA staff joined in the instant request for Commission permission for the HVAC equipment manufacturers participating in the Program to include the ENERGY STAR logo on the EnergyGuides on their qualifying products.

DOE and EPA have established qualifying energy consumption criteria that specific appliance and HVAC equipment categories must meet to be included in the ENERGY STAR Program.[7] To establish its criteria, DOE held public workshops in several cities, and solicited comments from all segments of the public. DOE received comments from appliance manufacturers and retailers, utilities, state energy agencies, public interest groups, and representatives of the Canadian government.

EPA held approximately 30 public meetings, primarily at EPA Headquarters in Washington, DC, mostly in late 1995 and early 1996. Attending stakeholders included manufacturers, public interest groups, industry trade associations, and utility groups.

The results of these processes as they apply to specific appliance categories are summarized below. Currently, to be included in the Program:

A refrigerator-freezer must have an annual electrical consumption (as determined by the DOE test for that category of products) that is at least 20 percent less than the maximum energy consumption permitted by DOE's standard for refrigerator-freezers;

A dishwasher must have an Energy Factor (''EF'') of 0.52 or greater.[8] An EF of 0.52 represents a 13% improvement in efficiency over DOE's minimum EF of 0.46;

A standard clothes washer (top or front loading) must have an EF of 2.5 or greater.[9] An EF of 2.5 is an approximately 112% efficiency improvement over DOE's minimum EF of 1.18. The relatively high percentage of improvement over the standard is due to the existence of a new technology in the clothes washer industry;

A room air conditioner must be rated with an Energy Efficiency Ratio (''EER'') that is 15% greater than the DOE minimum EER for the type and size of that unit.[10]

A gas- or oil-fueled furnace must be rated with an Annual Fuel Utilization Efficiency (''AFUE'') that is 90 or better; a gas- or oil-fueled boiler must be rated with an AFUE that is 85 or better.[11]

A central air conditioner or the cooling function of an air-source heat pump must be rated with a Seasonal Energy Efficiency Ratio (''SEER'') of 12 or better; the heating function of an air-source heat pump must be rated with a Heating Seasonal Performance Factor (''HSPF'') of 7 or higher.[12]

To date, DOE has not finished developing the water heater component of the Program.

As discussed in section II., below, the conditional exemption from the Rule's non-required information prohibition is being made available to Program participants only for those appliances that meet DOE's and EPA's criteria.

2. The ENERGY STAR Logo

EPA owns the ENERGY STAR logo and name and has licensed them to DOE. As a result of this joint partnership, the initials of both agencies appear on the logo. DOE and EPA allow the use of the ENERGY STAR logo by retailers, utilities, manufacturers and other organizations participating in their respective programs under clearly established guidelines that are set out in a memorandum of understanding (''MOU'') that each participant must sign. Participants that have signed an MOU are then ''partners.'' Under these MOUs, partners may associate the ENERGY STAR logo and name with specific products that DOE and EPA have determined meet the Program's requirements.[13]

Program partners may use the logo as a product label and in catalogs and advertising to designate specific products that are ENERGY STAR qualifying products. A sample EnergyGuide with an ENERGY STAR logo placed in accordance with the conditions the Commission announces today appears at the end of Section II., below. Partners also may display the logo when describing one or more of the ENERGY STAR labeling programs, such as in special educational brochures, newsletters, or annual reports. Retailer and utility partners are allowed to include the logo in general educational or promotional materials, such as utility bill stuffers, newsletters, or annual reports.

[7] A discussion of DOE's criteria, together with lists of qualifying products, can be found on DOE's ENERGY STAR website, at <www.energystar.gov>. EPA maintains a similar website at <www.epa.gov/energystar.html>, which is hyperlinked to DOE's site.

[8] Under the DOE tests, an appliance's EF is a measure of the useful output of its services divided by the energy input.

[9] To date, DOE has included only ''standard'' clothes washers in the Program because most of the models sold fall within that subcategory. For purposes of its minimum efficiency standards program, DOE's clothes washer category also includes a ''compact'' subcategory. The criterion for the distinction is tub capacity.

[10] The EER is the efficiency measurement for room air conditioners specified in the DOE test procedure for these products. Only units without reverse cycle (heating function) and with louvered sides can currently qualify for the Program.

[11] The AFUE is the efficiency measurement for forced air furnaces and for boilers that is specified in the DOE test procedure for these products.

[12] The SEER is the efficiency measurements for central air conditioners and the cooling function of air-source heat pumps specified in the DOE test procedure for these products; the HSPF is the DOE test efficiency measurement for the heating function of air-source heat pumps.

[13] The MOUs provide that each partner is responsible for using the logo in accordance with the MOU's terms. Partners must make the logo use guidelines available to other entities, such as advertising agencies, that prepare materials on the partner's behalf. Non-partners must seek specific approval from either EPA or DOE for each specific use of the logo. Under no circumstances may the logo or name be used in a manner that would imply EPA or DOE endorsement. DOE and EPA are responsible for overseeing proper use of the logo and name.

3. Current Use of the Logo and the Proposal To Include It on the EnergyGuide

Currently, retailers apply separate ENERGY STAR labels on qualifying appliances at each store site. The extent and accuracy of label placement is then monitored by participating utilities and DOE contractors. From its public workshops and the comments they generated, DOE learned that many manufacturers, retailers and consumers wanted a single, ''augmented'' EnergyGuide label, which would be preferable to separate EnergyGuide and ENERGY STAR labels.

Some manufacturers favored an augmented label because it would reduce their costs and allow them to assure proper identification of qualifying models, which is harder to control at the retailer level. Retailers believed that the augmented label would be less confusing to consumers than multiple labels relating to energy use, that an augmented EnergyGuide label could build upon the broad ''brand recognition'' achieved by the Commission's label, and that an augmented label would make it easier for consumers to distinguish efficient products. DOE staff believed that the efforts of the Commission, EPA, and DOE to provide consumer educational materials explaining a new augmented label, coupled with training for appliance salespeople, would lead to broader overall consumer awareness of the differences in energy consumption among competing appliances, and thus would result in more informed consumer decision-making. Finally, the augmented label could be used by utilities in connection with their efforts to support demand-side load reduction objectives through the use of incentives to consumers.

C. The Notice of Proposed Rulemaking

On November 24, 1998, the Commission published a Notice of Proposed Rulemaking proposing a conditional exemption to allow manufacturers to place the ENERGY STAR logo on EnergyGuides affixed to qualified products (63 FR 64921). The Commission noted that, although the ENERGY STAR logo is already appearing as a separate label on some qualifying appliances and most qualifying HVAC equipment covered by the Rule, an augmented label would be likely to lower manufacturers' labeling and monitoring costs and reduce the likelihood of mislabeling. The logo's highlighting of efficient appliances also could complement the Rule's objective of providing consumers with energy efficiency and consumption information. Finally, in conjunction with the descriptive information already on the EnergyGuide label, the logo could provide a context that would better ensure consumer understanding of the logo than if it were on a separate label.

1. The Terms of the Proposed Conditional Exemption

The Commission proposed adding a new section to the Rule—305.19 Exemptions—to codify the terms of the conditional exemption for those who wished to avail themselves of it. The Commission based the proposed exemption on several conditions. First, the ENERGY STAR logo would be permitted on the EnergyGuides of only those covered appliances and HVAC equipment that meet the ENERGY STAR Program qualification criteria that are current at the time the products are labeled. Second, only manufacturers that have signed an MOU with DOE or EPA would be permitted to affix the augmented labels to qualifying appliances. Third, to ensure that the ENERGY STAR logo is permanently placed in the proper position on the augmented EnergyGuide label, manufacturers that choose to avail themselves of the conditional exemption would be required to print the ENERGY STAR logo on EnergyGuides for qualified products as part of the usual label printing process; that is, manufacturers (or distributors or retailers) would not be permitted to apply a separate logo onto already finished labels subsequent to the time a product is labeled. Fourth, manufacturers would have to draft the logo in conformance with certain technical specifications relating to its appearance, placement on the EnergyGuide, and size. Specifically, the logo would have to appear above the comparability bar in the box that contains the applicable range of comparability. The precise location of the logo would vary depending on where the caret indicating the position of the labeled model on the scale appears (the NPR included a sample label that illustrated an EnergyGuide with the logo printed in conformity with the proposed conditions). The required dimensions of the logo would be no more than one and one-eighth inches (3 cm.) in width and no more than three-quarters of an inch (2 cm.) in height. Manufacturers would be prohibited from placing the logo in a way that would obscure, detract from, alter the dimensions of, or touch any element of the label, which in all other respects would have to conform to the requirements of the Commission's Rule. The ENERGY STAR logo would be in process black ink to match the print specifications for the EnergyGuide. The background would remain in process yellow to match the rest of the label.

As a last condition, the Commission proposed requiring that manufacturers availing themselves of the conditional exemption add a sentence to explain the significance of the ENERGY STAR logo, citing its concern that the addition of the logo to the EnergyGuide without some explanation of its meaning on the face of the label itself might not be meaningful to consumers. The Commission proposed that manufacturers include a brief explanatory sentence below the comparability bar between the ''least'' and ''most'' numbers (the exact wording would depend on the product category.): ''ENERGY STAR [product type(s)] use at least % less energy annually than the Federal Maximum.'' or: ''ENERGY STAR [product type(s)] are at least % more efficient than the Federal Minimum.'' or: ''ENERGY STAR [product type(s)] must be rated with a [type of efficiency rating] of [rating] or higher.''[14]

2. Non-Substantive Amendment To Add the Commission's Name to the EnergyGuide

The Commission also proposed amending the Rule so the Federal Trade Commission would be clearly identified as the government entity that requires manufacturers to affix the EnergyGuide label to their appliances, and to eliminate confusion if the Commission grants the proposed conditional exemption and the identifying initials of DOE and EPA appear on the labels of appliances that qualify for the ENERGY STAR Program. The proposal was to change the sentence at the bottom of the EnergyGuide to read:

> Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR Part 305).[15]

The Commission noted that, because of the non-substantive nature of this proposal, manufacturers would not have to make the change until their supply of current labels is exhausted in the ordinary course of business or they draft new labels for other reasons, such as a change in the ranges of comparability.

[14] *See* 63 FR 64924 for the proposed wording of this statement on labels for the different types of products that would be covered by the proposed conditional exemption.

[15] Currently, this disclosure reads, ''Important: Removal of this label before consumer purchase is a violation of Federal law (42 U.S.C. 6302).''

The proposed language was included on the sample EnergyGuide in the NPR.[16]

3. Specific Issues and Questions for Comment

In addition to asking for comment on any issues or concerns the public believed were relevant or appropriate to the Commission's consideration of the proposed exemption, the Commission also asked for comment on several specific questions: Whether the Commission should grant the proposed conditional exemption only to partners in the ENERGY STAR Program; whether the specific conditions under which the Commission was proposing the conditional exemption were appropriate (and if not, what conditions would be appropriate); whether the proposed explanatory statement was effectively worded and would be helpful to consumers; the benefits and economic impact of the proposed conditional exemption (especially on small businesses); and whether the ENERGY STAR logo and promotional materials convey accurate information to consumers (especially regarding overall operating cost over time).[17]

II. Discussion of the Comments and Final Amendments

A. The Proposed Conditional Exemption Generally

The Commission received fifteen comments in response to the NPR.[18] The comments were from four manufacturers,[19] three non-profit public interest groups,[20] two utilities,[21] two appliance manufacturer trade associations,[22] two state energy offices,[23] one utility association,[24] and one federal agency.[25] Generally speaking, all the commenters but two supported the Commission's proposal to make the conditional exemption available to those manufacturers who want to use it.[26]

1. Comments in Support

Thirteen comments expressed general support for the Commission's proposal.[27] DOE's comment included information on the current status of the appliance manufacturing and marketing industry's participation in the Program, indicating that participation now includes two thousand retail stores, including Sears, Circuit City and Montgomery Ward as national retail chain partners, as well as many small retailers, and five major appliance manufacturers—Amana, Frigidaire, General Electric, Maytag, and Whirlpool.[28]

a. Impact on Consumers and Others

Twelve comments addressed the effect the proposed conditional exemption would have on consumers and entities other than appliance manufacturers, such as retailers and utilities.[29] Ten of these mentioned benefits that the exemption would provide consumers.[30] These commenters agreed that the conditional exemption would make it easier for consumers easily to identify the highly efficient products that qualify for the Program. Five commenters noted in particular that the conditional exemption would result in an enhanced EnergyGuide label that would give consumers better, more easily understood information.[31] CEC stated:

> We strongly believe that the proposed conditional exemption will benefit the public. The ENERGY STAR logo on the EnergyGuide label will clearly and consistently identify qualifying highly efficient products. This conditional exemption will help to foster the growing public awareness of the value of energy efficiency in the home and the demand for new products that can help us conserve resources while enjoying the convenience and luxury of technology.[32]

Some commenters said that the exemption would result in a higher degree of assurance that the logo is applied only to qualifying products,[33] or would make it easier for retail sales staff to identify efficient products[34] or to promote qualified appliances.[35] OOE noted that "Retailers, especially, may appreciate the fact that they will no longer have to police which appliances on their sales floor have the ENERGY STAR logo affixed from day to day."[36]

Eight commenters stated that the ENERGY STAR logo and promotional materials convey accurate information to consumers, especially respecting the cost over time of purchasing and operating qualifying appliances.[37] ACEEE pointed out that the ENERGY STAR logo works in concert with the EnergyGuide to provide information on operating cost.[38] NEEA and CEC stated that, with regard to consumer information and promotional materials, and the issue of overall cost over time of purchasing and operating qualifying appliances versus non-qualifying appliances, ENERGY STAR attempts to give consumers the tools to make educated purchasing decisions, taking into account possible utility bill savings.[39] NRDC said that "Much of the supporting materials developed by EPA/DOE and their contractors do indeed try to educate consumers about the overall product cost (purchase cost plus operating costs). * * *"[40] Finally, commenting on the promotional materials it developed for the Program, DOE stated:

> All of the promotional materials developed by DOE convey accurate information about the ENERGY STAR label, its meaning, and the benefits that can be expected by

[16] *See* 63 FR 64924–25.

[17] *Id.* at 64926.

[18] PG&E & Electric Company ("PG&E") (1); Gas Appliance Manufacturers Association ("GAMA") (2); Northwest Energy Efficiency Alliance ("NEEA") (3); American Council for an Energy Efficient Economy ("ACEEE") (4); Maytag Corporation ("Maytag") (5); Air-Conditioning & Refrigeration Institute ("ARI") (6); Natural Resources Defense Council ("NRDC") (7); American Gas Association ("AGA") (8); General Electric Appliances ("GE") (9); Sacramento Municipal Utility District ("SMUD") (10); Oregon Office of Energy ("OOE") (11); Whirlpool Corporation ("Whirlpool") (12); Alliance Laundry Systems ("Alliance") (13); California Energy Commission ("CEC") (14); Department of Energy ("DOE") (15). The comments are on the public record and are available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and the Commission's rules of practice, 16 CFR 4.11, at the Consumer Response Center, Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC. The comments are organized under the Appliance Labeling Rule, R611004, Energy Star Rulemaking.

[19] Maytag (5); GE (9); Whirlpool (12); and Alliance (13).

[20] NEEA (3); ACEEE (4); and NRDC (7).

[21] PG&E (1); and SMUD (10).

[22] GAMA (2); and ARI (6).

[23] OOE (11); and CEC (14).

[24] AGA (8).

[25] DOE (15).

[26] AGA (8) and GE (9) opposed the proposal.

[27] PG&E (1) p. 1; GAMA (2) p. 1; NEEA (3) pp. 1, 3; ACEEE (4) pp. 1–2; Maytag (5) p. 1; ARI (6) p. 1 (provided participation in the program remains optional); NRDC (7) pp. 1–2, 3, 8; SMUD (10) pp. 1–2; OOE (11) pp. 1, 5; Whirlpool (12) p. 2; Alliance (13) p. 2 (provided use of the ENERGY STAR logo does not require financial or other support for retail marketing efforts; does not sell its products at retail); CEC (14) p. 1; DOE (15) pp. 1–2.

[28] DOE (15) pp. 1–2.

[29] PG&E (1) p. 1; NEEA (3) p. 2; ACEEE (4) p. 2; Maytag (5) p. 3; ARI (6) p. 2; NRDC (7) p. 5; AGA (8) p. 2; GE (9) pp. 3–5; OOE (11) pp. 3–4; Whirlpool (12) p. 1; CEC (14) p. 2; DOE (15) p. 4.

[30] PG&E (1) p. 1; NEEA (3) p. 2; ACEEE (4) p. 2; Maytag (5) p. 3; ARI (6) p. 2; NRDC (7) p. 5; OOE (11) pp. 3–4; Whirlpool (12) p. 1; CEC (14) pp. 2, 4; DOE (15) p. 4. The comments in opposition from AGA and GE are discussed in II.A.2, below.

[31] NEEA (3) p. 1; ACEEE (4) p. 1; NRDC (7) p. 2; SMUD (10) pp. 1–2; CEC (14) p. 1.

[32] CEC (14) p. 2.

[33] PG&E (1) p. 1; OOE (11) p. 1; Whirlpool (12) p. 1.

[34] NEEA (3) p. 2; NRDC (7) p. 5; CEC (14) p. 4 (would help manufacturers, retailers, and utilities to explain the benefit of these products).

[35] CEC (14) p. 2; DOE (15) p. 4.

[36] OOE (11) p. 4.

[37] NEEA (3) pp. 2–3; ACEEE (4) p. 2; Maytag (5) p. 4; ARI (6) p. 2; NRDC (7) p. 6; OOE (11) p. 4; CEC (14) pp. 2, 5; DOE (15) p. 4. See section II.A.2 for a discussion of the contrary position of AGA and GE.

[38] ACEEE (4) p. 2.

[39] NEEA (3) p. 3; CEC (14) pp. 2, 5.

[40] NRDC (7) p. 6. NRDC hoped that a future, redesigned EnergyGuide would fulfill this function, and pledged its assistance and support to this end.

consumers. The Department has commissioned hundreds of hours of technical and economic analyses concerning the product mixes, expected market penetrations, and consumer payback. The Department has worked very closely with EPA to ensure that our consumer education materials accurately convey the message that the ENERGY STAR differentiates products that use less energy and as such, can save consumers money on their utility bills.[41]

Five commenters observed that the conditional exemption would likely benefit those public utilities that have developed incentive programs that provide rebates to consumers who purchase energy efficient appliances and heating and cooling equipment.[42] These commenters stated that the ENERGY STAR logo on the EnergyGuide would make it easier for utility staff to recognize products that qualify for their programs:

Appliance manufacturers, major retailers and many utilities have signed partnership agreements to use the symbol to promote efficient products. The conditional exemption will establish consistency in product labeling, making it easier for utilities and retailers to promote qualified products, and most importantly, making it easier for consumers to recognize them in stores.[43]

b. Impact on Manufacturers

Eleven commenters addressed the impact of the proposed conditional exemption on manufacturers.[44] Nine of these thought that the proposal would benefit manufacturers economically.[45] Almost all of these comments contended that the conditional exemption would reduce printing costs to manufacturers over time[46] because they would be able to use one combined label for the required EnergyGuide and voluntary ENERGY STAR disclosures, rather than two, as before. Five commenters believed that the proposal would result in an increase in the sale of energy efficient products or increased sales revenues for manufacturers, with two of these, ACEEE and OOE, suggesting that increased sales of higher efficiency units would result in higher revenues because such units tend to cost more and produce more profit per unit sold.[47]

2. Comments in Opposition

Two commenters opposed the proposed conditional exemption. AGA contended that the EnergyGuide label should disclose energy use and efficiency descriptors derived using source-based data, rather than end-use data:[48]

The Commission is currently limited in its EnergyGuide labeling program to use energy descriptors, provided by the Department of Energy (DOE), that provide narrow and misleading views of energy efficiency. In some cases, particularly when the appliances have different fuel sources, these descriptors distort how consumers view the overall cost and environmental impacts of operating appliances. For appliances that use competing fuels, this exemption may exacerbate the problem. * * * For appliances that use competing fuels, consumers would not benefit from the addition of the ENERGY STAR on the EnergyGuide label.

The Commission should disclose source-based information on EnergyGuides in order to allow consumers to translate a concern for the environment and a finite supply of fossil fuels into positive action when making purchasing decisions. In addition to promoting sound public policy, using source-based data provides Congress, the Commission, DOE and the public with a more accurate measurement of (1) energy consumption, (2) associated emissions, and (3) conservation potential.[49]

GE also opposed the proposed conditional exemption. Noting that it is ''proud to be an Energy Star partner,'' GE stated that it believed the Program is working in its present form (with the ENERGY STAR logo applied as a separate label) and that it saw no reason for a change such as the one requested in Maytag's petition. GE maintained that the Commission should conduct an evaluation of each aspect of the ENERGY STAR Program, from the logo to the partnership, and provide the public with an opportunity for comment.[50] GE contended:

Petitioners have failed to demonstrate the need to exempt the Energy Star logo from the general prohibition against placing additional information on the EnergyGuide label. The Energy Star logo is a strictly voluntary program and elements of the program should not appear on the mandatory EnergyGuide label. * * * The current labeling scheme is sufficient to meet consumers' needs for energy consumption information.[51]

GE asserted that the proposed conditional exemption would penalize manufacturers of products that do not qualify for inclusion in the ENERGY STAR Program, and argued that the impact on these manufacturers, as well as the validity of the criteria for inclusion in the Program, should be subject to careful analysis under the standards of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.:*

[N]either the Commission nor any other agency has developed record evidence to support the minimum qualifications established for Energy Star products. As an example, refrigerators must be ~20% more efficient than the DOE standards. Why? What national objective does a 20% level better achieve than 10%, 5% or 25%? What is the impact on competition of the selected level? Information on these issues, if it exists, has never been provided to interested parties. The Commission must remedy this oversight.[52]

GE also contended that the ENERGY STAR Program's use, with the logo and in Program materials, of the slogan ''Saving the Earth,'' without qualification as to how the Program actually helps the environment, may violate the Commission's Guides for the Use of Environmental Marketing Claims, 16 CFR part 260 (1999), which require that such claims be substantiated.[53]

Finally, GE argued that the conditional exemption would mislead consumers into thinking that they are purchasing superior products when they are not because the Energy Star label does not distinguish between refrigerators that are 20% and 40% better than the standard. It contended that putting both products on an apparent equal footing misleads the consumer, who focuses on the logo, thinking that the less efficient product is just as efficient as the 40% model.[54]

3. Final Amendments

After careful consideration of the comments, the Commission is amending the Rule to permit (but not require)

[41] DOE (15) p. 4.

[42] NEEA (3) p. 2; Maytag (5) p. 3; NRDC (7) p. 5; CEC (14) p. 2; DOE (15) p. 4.

[43] CEC (14) p. 2.

[44] GAMA (2) p. 1; NEEA (3) p. 2; ACEEE (4) p. 2; Maytag (5) p. 3; ARI (6) p. 2; NRDC (7) p. 5; GE (9) p. 2; OOE (11) p. 3; Alliance (13) p. 2; CEC (14) p. 4; DOE (15) p. 4. Some of these commenters also addressed the impact of the proposed conditional exemption on retailers, as discussed in II.A.1.a, above.

[45] GAMA (2) p. 1; NEEA (3) p. 2; ACEEE (4) p. 2; ARI (6) p. 2; NRDC (7) p. 5; OOE (11) p. 3; Alliance (13) p. 2; CEC (14) p. 4; DOE (15) p. 4. Maytag stated that there would be no economic impact on manufacturers. Maytag (5) p. 3. GE contended that the conditional exemption would have a negative impact on manufacturers. GE (9) p. 2. See the discussion of GE's comments in section II.A.2, below.

[46] Three commenters noted that the initial cost of the labeling change, for those who avail themselves of the conditional exemption, would be inconsequential, but that combining the labels would reduce labeling costs in the long run. ARI (6) p. 2; NRDC (7) p. 5; OOE (11) p. 3.

[47] ACEEE (4) p. 2 (ACEEE also pointed out that the conditional exemption would not injure individual manufacturers because it would be voluntary and manufacturers perceiving no benefits could continue with their current labeling programs.); NRDC (7) p. 5; SMUD (10) p. 2; OOE (11) p. 3; Whirlpool (12) p. 1.

[48] Source-based data includes the cost of producing the energy to fuel the appliance, as well as the energy production's impact on the environment; end-use data considers only the amount of energy used to fuel the appliance.

[49] AGA (8) pp. 2, 5.

[50] GE (9) pp.1–2.

[51] *Id.* pp.5–6.

[52] *Id.* p.2.

[53] *Id.,* p.3–4.

[54] *Id.,* p.4.

appliance manufacturers that are members of the EPA/DOE ENERGY STAR Program to place the ENERGY STAR logo on the EnergyGuides they affix to those of their products that qualify for inclusion in the ENERGY STAR Program. The Commission agrees with the comments that maintained that inclusion of the logo on labels for qualified products would help consumers identify and purchase more energy-efficient products, and that manufacturers electing to print the logo on their EnergyGuides, rather than to attach it by means of a separate label, would be able to save labeling costs. The Commission is modifying the wording and some substantive aspects of the proposal, however, in response to comments offering suggestions regarding placement of the logo on the EnergyGuide and the Explanatory Statement, as discussed in sections II.B.2., below.

Based on the comments received, the Commission has concluded that the ENERGY STAR logo and Program convey accurate, useful information to consumers. The Commission recognizes, as DOE pointed out in its comment, that this Program was carefully developed and that extensive public participation was sought and considered in finalizing the Program. The comments describing the ENERGY STAR Program's benefits to consumers, appliance manufacturers and retailers, and public utilities that maintain incentive rebate programs for consumers who purchase energy efficient appliances, strongly support implementation of the conditional exemption.

The Commission disagrees with GE's contention that it must conduct an evaluation—either through administrative rulemaking or otherwise—of every aspect of the ENERGY STAR Program before permitting manufacturers to print the logo on EnergyGuides on their qualifying products. The Commission is not required by statute to exclude non-required information from the EnergyGuide. Rather, the Commission included this prohibition in the Rule on its own initiative. Therefore, the Commission has the authority to repeal this prohibition entirely, or to specify the conditions under which clearly identified non-required information would be permitted. In this instance, the Commission is deciding to permit the addition of information that is truthful and accurate under a program established and monitored by two sister agencies. As discussed in section I.B, above, DOE and EPA both subjected their initially separate versions of the ENERGY STAR Program to extensive public scrutiny and participation during the development of their Programs, and the Commission is satisfied with that aspect of the current Program.

Further, the Commission is not persuaded by GE's argument that the ENERGY STAR logo on EnergyGuides will mislead consumers because the ENERGY STAR label will not distinguish among products that are more efficient than the DOE standard. Because the specific energy use information of the labeled model will appear on the EnergyGuide, the actual difference in energy use among competing models will be readily apparent. Currently, consumers can see both the EnergyGuide and ENERGY STAR labels on products and can use the information together to make purchasing decisions if they wish. Allowing the logo on the EnergyGuide makes it easier for consumers to use the information together, while reducing labeling costs and the possibility of mislabeling.

Nor does the Commission agree with GE that the appearance of the logo on EnergyGuides will create an inappropriate impression of federal government endorsement. The current practice of using separate ENERGY STAR stickers containing DOE's and EPA's names does not appear to raise this concern and it is unlikely that consolidation of the labels will do so.[55]

GE has expressed its concern more than once during this proceeding that promotional materials produced by DOE for the ENERGY STAR Program contain unqualified claims of environmental benefit. DOE has undertaken a review of the claims in its promotional materials. DOE intends to republish its materials with whatever changes may be necessary so that they are in compliance with the Commission's Guides for the Use of Environmental Marketing Claims.

Finally, the Commission does not have the authority to require the inclusion of source-based energy use data on the EnergyGuide, as AGA suggested. As noted in AGA's comment, the directive in section 324(c)(1)(A) of EPCA[56] is that the Commission require a label that discloses energy use information derived from DOE's test procedures, which determine end-use energy use data only.

B. Specific Aspects of the Proposed Conditional Exemption

1. Limitation of the Conditional Exemption to Energy Star Partners

a. Comments

Ten commenters addressed the Commission's proposal to permit only manufacturers who have signed an MOU with DOE or EPA to place the ENERGY STAR logo on EnergyGuides affixed to their qualifying products. Seven of these agreed that the proposed conditional exemption should be limited to partners in the ENERGY STAR Program.[57] ACEEE pointed out that ''ENERGY STAR'' is a trademark that can only be used with EPA's and DOE's permission, and that it is the prerogative of only those agencies (and not of the FTC) to permit non-partners to use the logo.[58] Three other commenters stated that to permit the use of the logo on EnergyGuides by non-partners would negate the value and credibility of the Program and violate EPA's and DOE's guidelines.[59] OOE stated that EPA and DOE need control over the use of the logo, and that the MOU should pose no problems for manufacturers,[60] and DOE said that the licensing agreement provides the federal government with needed control over the logo's use.[61] Whirlpool agreed that participation in the conditional exemption should be limited to partners that have signed an MOU with DOE or EPA. Whirlpool also recommended that the Commission clarify that partners who sign MOUs that are limited to specific product categories can only put the ENERGY STAR logo on qualifying products within the scope of the MOU. For example, if a full-line manufacturer participates in the ENERGY STAR program only with respect to its refrigerators, that manufacturer would be permitted to use the ENERGY STAR logo only on EnergyGuides affixed to qualifying refrigerators, and not to other

[55] GE apparently believes that, because the EnergyGuide is a mandatory label, consumers would perceive the ENERGY STAR on the Energy Guide as a government endorsement, but would not perceive the separate ENERGY STAR label in the same way. The ENERGY STAR label, which often contains the identifying letters of EPA and/or DOE, is already widely seen on appliances and other products (*e.g.,* computers and televisions) where there are no EnergyGuides. To the extent that consumers perceive such labeled products as ''government endorsed'' they very likely correctly understand that the ''endorsement'' is limited to energy efficiency or energy saving features, and not as a government suggestion that ENERGY STAR labeled products are superior to others in all respects. Accordingly, the Commission does not share GE's concerns regarding an inappropriate impression of Federal Government endorsement.

[56] 42 U.S.C. 6294(c)(i)(A).

[57] NEEA (3) p.2; ACEEE (4) p.1: NRDC (7) pp.3–4; OOE (11) p.2; Whirlpool (12) p.1; CEC (14) p.3; DOE (15) p.3.

[58] ACEEE (4) p.1.

[59] NEEA (3) p.2; NRDC (7) pp.3–4; CEC (14) p.3.

[60] OOE (11) p.2.

[61] DOE (15) p.3.

products, such as clothes washers or dishwashers.[62]

Three commenters did not agree with the limitation proposed in the NPR. All of these recommended that the exemption should not be limited only to partners, but should be available to all manufacturers whose products meet the Program's criteria.[63]

b. Final Amendments

The ENERGY STAR logo and name belong to EPA, which has licensed their use to DOE, and use of the name and logo by manufacturers is carefully controlled by the specific guidelines contained in the MOUs that participating manufacturers sign with each agency. Because EPA and DOE use the MOUs to maintain the Program's integrity, the Commission will not permit use of the ENERGY STAR name or logo on EnergyGuides by a manufacturer that has not signed an MOU with EPA or DOE.

To address Whirlpool's concern that a full-line manufacturer that has signed an MOU only with respect to one line of products might use the ENERGY STAR logo on another line, the conditional exemption is drafted to apply only to those products that are the subject of the MOU the manufacturer has signed.

Accordingly, § 305.19(a)(2) of the amended Rule limits the conditional exemption only to partners in the ENERGY STAR Program that have signed an MOU with EPA or DOE, and only to those products that are covered by the MOU.

2. Other Conditions for Use of the EnergyGuide

a. Generally

In response to a general question in the NPR about the appropriateness of the conditions under which the conditional exemption would be granted, four commenters stated without elaboration that the conditions were reasonable or appropriate.[64] Two others agreed that the conditions were appropriate with the exception of the requirement, discussed below, that the logo appear with the Explanatory Statement proposed in the NPR.[65]

b. Placement of the Logo on the EnergyGuide

i. Comments

Ten commenters addressed the question in the NPR regarding the most cost-effective method for placing the ENERGY STAR logo on the EnergyGuide. Six of these said that the best method was for manufacturers to print the logo on the EnergyGuide at the factory.[66] Of these, ACEEE, Alliance, and DOE pointed out that printing at the factory is the most cost-effective method, and PG&E and NRDC stated that the approach would reduce or avoid mislabeling (intentional or unintentional). Two commenters thought that the decision as to the most cost-effective way of placing the ENERGY STAR logo on EnergyGuides should be left to the manufacturers,[67] and two others recommended that the Commission indicate that putting the logo on EnergyGuides would be optional.[68]

ii. Final Amendments

The Commission believes that manufacturers should bear the responsibility for assuring that the ENERGY STAR logo appears properly and consistently on qualifying products. Moreover, manufacturers would be able to ensure consistent and proper placement of the logo more efficiently and at a lower cost if the logo were permitted on the EnergyGuide itself. While the Commission recognizes that the most efficient way for manufacturers to fulfill this responsibility would probably be to print the ENERGY STAR logo on EnergyGuides during the printing process, the Commission nevertheless wishes to afford manufacturers the latitude to place the logo on EnergyGuides by whatever means is most efficient for them, provided the placement complies with the requirements for location and size. They should then affix those EnergyGuides on their ENERGY STAR-qualified covered products in the same manner they use to affix EnergyGuides without the ENERGY STAR logo to their other covered products.

The Commission also notes that the requirement to place the logo on EnergyGuides applies only to those manufacturers who participate in the ENERGY STAR Program and elect to avail themselves of the conditional exemption. The extent to which participating manufacturers wish to use the ENERGY STAR logo on labels attached to qualifying products is up to them.

Accordingly, § 305.19(a)(3) of the amended Rule provides that manufacturers that choose to use the conditional exemption may print the ENERGY STAR logo on EnergyGuides for qualified products as part of the usual label printing process or may place the logo on EnergyGuides by whatever means is most efficient for them, provided the placement complies with the applicable size, location, and appearance requirements specified in § 305.19(a)(4).

c. The Explanatory Statement

i. Comments

Eleven commenters addressed the Explanatory Statement that the Commission proposed for inclusion on the EnergyGuides of qualifying products along with the ENERGY STAR logo.[69] Seven of these contended that consumers needed either the proposed statement or some other language explaining the logo to understand the significance of the logo's presence on the EnergyGuide.[70] NEEA, Maytag, ARI, Whirlpool, and Alliance thought that the Explanatory Statements proposed in the NPR were ''appropriate,'' would help provide consumers with more purchase decision information, or would reinforce consumer understanding.[71] CEC agreed that the proposed Explanatory Statement was appropriate, and suggested that the Commission also include the additional tagline, ''The symbol for energy efficiency.'' [72] NEEA and NRDC agreed with CEC's recommended language.[73] ACEEE contended that explanatory statements are not essential, but, if properly done, could offer some marginal benefits by explaining why

[62] Whirlpool (12) p.1.

[63] Maytag (5) p.2; ARI (6) p.1 (ARI supported requiring manufacturers to have approval from either EPA or DOE to use the logo, but apparently did not believe formal partnership should be required.); Alliance (13) p. 1 (Alliance sells its products only in the multi-housing and Federal Government contract markets, and not at retail).

[64] ACEEE (4) p.1; ARI (6) p.1; Alliance (13) p.1; DOE (15) p.3.

[65] NRDC (7) p.3; OOE (11) p.2.

[66] PG&E (1) p.1; ACEEE (4) p.1; NRDC (7) p.4; OOE (11) p.2; Alliance (13) p.1; DOE (15) p.3.

[67] Maytag (5) p.2; CEC (14) pp.2, 3.

[68] ARI wanted the Commission to make clear that the ENERGY STAR Program was voluntary. ARI (6) p.1. Whirlpool wanted an indication that participating manufacturers would not be required to label qualifying products, in case, for some reason, they inadvertently failed to print the logo on EnergyGuides attached to qualifying products. Whirlpool (12) p.2.

[69] NEEA (3) p.2; ACEEE (4) p.1; Maytag (5) pp.2, 3; ARI (6) pp.1, 2; NRDC (7) pp.3, 5; SMUD (10) p.2; OOE (11) pp.2–3; Whirlpool (12) p.2; Alliance (13) pp.1, 2; CEC (14) pp.3, 4; DOE (15) p.3.

[70] NEEA (3) p.2; ACEEE (4) p.1; Maytag (5) p.2; ARI (6) p.1; Whirlpool (12) p.2; Alliance (13) p.1; CEC (14) p.3.

[71] NEEA (3) p.2; (4) p.1; Maytag (5) p.2 (Maytag noted that ''The explanatory statement containing the term 'x% less energy annually that the Federal maximum' is clearer than expressing the same concept as 'x% more efficient that the Federal minimum.' ''); ARI (6) p.1; Whirlpool (12) p.2; Alliance (13) p.1.

[72] CEC (14) p.3.

[73] NEEA (3) p.2 (in addition to the proposed explanatory statement); NRDC (7) pp.3, 4 (as an alternative to the proposed explanatory statement).

some products get an ENERGY STAR and others do not, provided the statements are easy to understand and do not contain terms that are unfamiliar to consumers (such as ''SEER'' and ''Federal Maximum''). ACEEE suggested that the statement read, ''The ENERGY STAR is awarded to the most efficient products on the market.'' [74] OOE suggested, ''Energy Star is an EPA/DOE program that helps consumers identify the most efficient appliances available today.'' [75] DOE suggested, ''The ENERGY STAR logo identifies the most energy efficient products.'' [76]

In connection with their suggestions of alternative language for the Explanatory Statement, OOE and NRDC contended that the proposed language in the Explanatory Statements for the different product categories was too complex and technical.[77] OOE also noted that the criteria for qualifying for the ENERGY STAR Program are likely to change over time, which would necessitate corresponding adjustments to labels.[78] Without suggesting specific language, SMUD also recommended against technical product-by-product qualifiers, and urged simplicity.[79]

Seven commenters addressed whether the ENERGY STAR logo or the Explanatory Statement would affect consumers' understanding of the information on the EnergyGuide.[80] Alliance and DOE did not believe that the Explanatory Statement would affect consumers' understanding of the other parts of the EnergyGuide.[81] Maytag, ARI and CEC stated that the Statement would be complementary to or would clarify the other information on the label and would assist consumers in understanding the EnergyGuide's overall content.[82] OOE did not think that the addition of the logo would adversely affect consumer understanding of the other information on the EnergyGuide, primarily because of the amount of promotion of the program done by EPA and DOE.[83] NRDC and CEC contended that the addition of the logo to the EnergyGuide could help overcome what these commenters referred to as the common consumer misconception that the EnergyGuide label itself denotes energy efficiency.[84]

Six commenters addressed whether the Commission should require that the ENERGY STAR logo and Explanatory Statement appear in a color of ink different from the black ink on the rest of the EnergyGuide.[85] Most concluded that the additional expense to manufacturers would not be justified by a sufficiently significant increase in communication effectiveness. Maytag and ARI stated that the ENERGY STAR logo itself is the primary visual attraction, and that the additional cost would be unjustified.[86] OOE thought that a separate color of ink might be helpful, but was not sure that the additional expense would be justified by a commensurate increase in effectiveness.[87] CEC stated:

> Adding the ENERGY STAR logo in a different color might be more visible for consumers, although it would be more expensive for manufacturers. Manufacturers could be given the option of using a ''line art'' (one color) version of the logo in a different color (such as blue or green), or manufacturers could use the 4-color version of the ENERGY STAR logo.[88]

DOE recommended that black ink be used for all explanatory language concerning ENERGY STAR.[89]

ii. Final Amendments

The record indicates that consumer understanding would be increased with a brief explanation of the ENERGY STAR logo on the EnergyGuide, and that an Explanatory Statement would not adversely affect consumers' understanding of the rest of the information on the EnergyGuide. The majority of the commenters, however, believed that the explanatory language proposed in the NPR is more specific and detailed than necessary. The Commission is persuaded that a simpler, less technical, more generic approach would be more helpful to consumers and more likely to communicate clearly the significance of the ENERGY STAR logo on the label. In addition, a simpler, non-specific Explanatory Statement would have the advantage of not needing to be changed whenever the criteria for ENERGY STAR qualification are modified.

In considering possible alternative language for the Explanatory Statement, the Commission has reviewed the ''taglines'' suggested by the commenters, and has decided to use a simple statement that draws from these suggestions. In choosing a tagline, the Commission recognizes that, although models labeled with the ENERGY STAR logo are more efficient as a group than most of those not so labeled, some products made by manufacturers not in the ENERGY STAR Program may be as efficient or more efficient. To accommodate this situation, the Commission has adopted a tagline that states that the ENERGY STAR is ''A symbol of energy efficiency,'' instead of ''The symbol for energy efficiency,'' as the tagline currently most often used by DOE and EPA reads. Thus, the Commission has determined to use the phrase ''ENERGY STAR A Symbol of Energy Efficiency'' as a tagline to replace the Explanatory Statement proposed in the NPR. Accordingly, § 305.19(a)(5) requires that the Explanatory Statement, ''ENERGY STAR A Symbol of Energy Efficiency'' appear on all EnergyGuides on which the ENERGY STAR logo appears.

Further, in keeping with the comments suggesting the importance of simplicity regarding the explanatory statement and how it functions to inform consumers of the meaning of the logo, the Commission has changed the location of the statement from the location proposed in the NPR. The Commission is concerned that the distance and visual material that separate the tagline from the logo when they are above and below the bar, as proposed in the NPR, are visually confusing and could interfere with the ability of consumers to associate the two together at a glance. Accordingly, § 305.19(a)(5) of the amendments now requires that the tagline be located directly next to the logo above the bar, rather than below the bar.

Virtually of the commenters that addressed whether the Commission should require that the ENERGY STAR logo and the Explanatory Statement appear in a different color of ink agreed that, although the requirement might somewhat increase the communication effectiveness of the logo and statement, the increase would not justify the additional cost to manufacturers. Accordingly, the Commission is not requiring the logo and statement to appear in ink of a color different from that of the other information on the EnergyGuide. Moreover, to avoid potential consumer confusion if some, but not all, manufacturers were to use a different colored ink, the Commission is requiring specifically that the logo and Explanatory Statement appear in process black ink.

[74] ACEEE (4) pp.1–2.

[75] OOE (11) p.2.

[76] DOE (15) p.3.

[77] OOE (1) pp.2–3; NRDC (7) p.3 (recommending that the explanatory statement be simple).

[78] OOE (1) pp.2–3.

[79] SMUD (10) p.2 (also noting that technical terms detract from the abilities of consumers and sales staff to use the label. NRDC made this same point. NRDC (7) p.3.).

[80] Maytag (5) p.3; ARI (6) p.2; NRDC (7) p.5; OOE (11) p.3; Alliance (13) p.2; CEC (14) p.4; DOE (15) p.3.

[81] Alliance (13) p.2; DOE (15) p.3.

[82] Maytag (5) p.3; ARI (6) p.2; CEC (14) p.4.

[83] OOE (1) p.3.

[84] NRDC (7) p.5; CEC (14) p.4.

[85] Maytag (5) p.2; ARI (6) p.2; OOE (11) p.3; Alliance (13) p.1; CEC (14) p.4; DOE (15) p.3.

[86] Maytag (5) p.2; ARI (6) p.2.

[87] OOE (11) p.3.

[88] CEC (14) p.4.

[89] 89 DOE (15) p.3.

C. Proposed Amendment To Add the Commission's Name to the EnergyGuide

1. Comments

Whirlpool and GE addressed the Commission's proposal to add the identity of the Federal Trade Commission on the label as the agency responsible for enforcing the Appliance Labeling Rule. Whirlpool stated:

> This can be easily accomplished as part of a natural transition to new EnergyGuide labels with new model introductions, normal changes emanating from changes in comparability and as inventories of old label stock are consumed.[90]

GE expressed concern about the proposal tangentially in connection with its opposition to the overall proposal to add the ENERGY STAR logo to the EnergyGuide:

> Allowing the Energy Star logo to be placed on the mandatory EnergyGuide label has the potential to mislead consumers to believe that the Federal Government actually endorses the product. Consider the impact of having the names of FTC, DOE and EPA on a product label. The potential is substantial that consumers will conclude that these government agencies together have determined that this product is superior to those that do not contain the label.[91]

2. Final Amendments

The Commission has concluded that the addition of the Federal Trade Commission's name on the EnergyGuide is desirable to clarify the identity of the agency with the authority for enforcing the Appliance Labeling Rule, especially on those labels bearing the ENERGY STAR logo, on which EPA and DOE also will be identified. The Commission does not agree with GE's assertion that the appearance of the Commission's name (along with EPA's and DOE's) will mislead consumers into thinking that the labeled product is superior to those products with labels without the ENERGY STAR logo. Rather, the Commission believes that consumers will see that there is a label on the product, required by the Federal Trade Commission, that contains energy use information and an indication that the product is more energy efficient than many other similar products in the marketplace.[92]

Consequently, §§ 305.11(a)(5)(i)(I), 305.11(a)(5)(ii)(H), and 305.11(a)(5)(iii)(H) of the amended Rule replace the language at the bottom of the current EnergyGuide with the following statement:

> Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR part 305).

D. Initiative of the American Council for an Energy Efficient Economy

The Commission is aware that a group of stakeholders organized by the American Council for an Energy Efficient Economy (''ACEEE''), a public interest group concerned with promoting energy efficiency, has recently undertaken an initiative to study alternative designs for the EnergyGuide. The Commission's staff is involved in an advisory capacity in this project. The Commission understands that ACEEE is not likely to finish its research and prepare a petition for the Commission before the end of a year's time. The Commission will continue to follow this initiative, and will consider ACEEE's recommendations, if appropriate, when, and if, it files a petition at the completion of the project. In the meantime, the Commission believes that it should act now on the present recommendation so the public can realize its intended benefits as soon as possible.

II. Regulatory Flexibility Act

This notice does not contain a regulatory analysis under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 603–604, because the Commission believes that the conditional exemption will not have ''a significant economic impact on a substantial number of small entities,'' 5 U.S.C. 605.

In the NPR, the Commission noted that the Rule prohibits the inclusion of non-required information on the EnergyGuide in order to ensure that such information does not detract from the required information. The Commission concluded tentatively that the conditional exemption would not impose any new requirements on manufacturers of appliances and HVAC equipment and that, instead, it would allow them the option, under certain conditions, of voluntarily including the DOE/EPA ENERGY STAR logo on EnergyGuides affixed to products that qualify for inclusion in the ENERGY STAR Program. The Commission stated that it therefore believed the impact of the conditional exemption on all entities within the affected industry, if any, would be de minimis.

The Commission also stated in the NPR that, similarly, manufacturers would not have to comply with the proposed amendment to require different language on the EnergyGuide that identifies the Commission as the agency with enforcement authority for the Rule until they were required to print new labels for other reasons, so the Commission believed that the impact of the proposed amendment on all entities within the affected industry, if any, also would be de minimis.

In light of the above, the Commission certified in the NPR, pursuant to section 605 of the RFA, 5 U.S.C. 605, that the proposed conditional exemption would not, if granted, have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact was overlooked, however, the Commission solicited comments concerning the effects of the proposed conditional exemption, including any benefits and burdens on manufacturers or consumers and the extent of those benefits and burdens, beyond those imposed or conferred by the current Rule, that the conditional exemption would have on manufacturers, retailers, or other sellers. The Commission expressed particular interest in comments regarding the effects of the conditional exemption on small businesses. The Commission stated that, after reviewing any comments received, it would determine whether it would be necessary to prepare a final regulatory flexibility analysis if it determined to grant the conditional exemption.

Eight comments responded to the Commission's solicitation in this regard.[93] Maytag said that the proposed conditional exemption would probably produce no economic impact on, or benefits to, small businesses.[94] ARI stated that the impact of the proposal would not differ from small businesses to large, but that the proposal could potentially reduce labeling costs for both.[95] ACEEE believed that the proposal would result in reduced costs to small retailers in the Program because they would no longer have to prepare and affix ENERGY STAR labels at their own expense if manufacturers were to add the ENERGY STAR logo at the factory.[96] Alliance said that the proposal would result in cost savings for manufacturers that are small businesses by permitting them to display the ENERGY STAR logo on their products by means of only one label instead of

[90] Whirlpool (12) p.2.

[91] GE (9) p.5.

[92] Adding the Federal Trade Commission's name also will help consumers who have questions about the EnergyGuide or who observe products without labels to know where to go for additional information or to complain.

[93] ACEEE (4) p.2; Maytag (5) p.3; ARI (6) p.2; NRDC (7) p.5; OOE (11) p.4; Alliance (13) p.2; CEC (14) p.4; DOE (15) p.4.

[94] Maytag (5) p.3.

[95] ARI (6) p.2.

[96] ACEEE (4) p.2.

two.[97] Finally, four commenters[98] shared the following view, as expressed by DOE:

The proposed conditional exemption will be especially beneficial to small businesses which do not necessarily have a budget for specific promotions to correspond with the ENERGY STAR Program (especially in the future when the government stops creating point-of-purchase materials). These retailers will be able to undertake promotions of energy efficient products at virtually no cost or effort.[99]

While most of the comments on this issue suggest that the conditional exemption may have beneficial results for some small businesses, the Commission believes that the impact of the results will be *de minimis,* because the potential savings in labeling and promotional costs, while helpful, will be small in comparison to the overall budgets of the businesses affected, and thus will not be ''significant.''

The Commission received no comments regarding the costs of the proposed amendment to include the agency's name on EnergyGuide labels. Thus, the Commission's conclusion in the NPR that the impact of the proposed amendment would be *de minimis* remains unchanged.

In light of the forgoing, the Commission certifies, pursuant to section 605 of the RFA, that the conditional exemption and amendments published today will not have a significant economic effect on a substantial number of small entities.

IV. Paperwork Reduction Act

The Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501 *et seq.*, requires government agencies, before promulgating rules or other regulations that require ''collections of information'' (*i.e.*, recordkeeping, reporting, or third-party disclosure requirements), to obtain approval from the Office of Management and Budget (''OMB''), 44 U.S.C. 3502. The Commission currently has OMB clearance for the Rule's information collection requirements (OMB No. 3084–0069).

In the NPR, the Commission concluded that the conditional exemption would not impose any new information collection requirements. To ensure that no additional burden was overlooked, however, the Commission sought public comment on what, if any, additional information collection burden the proposed conditional exemption would impose.

No comments addressed this issue. The Commission maintains its position, therefore, that the conditional exemption will not impose any new information collection requirements.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

V. Final Amendments

In consideration of the foregoing, the Commission amends title 16, chapter I, subchapter C of the Code of Federal Regulations, as follows:

PART 305—RULE CONCERNING DISCLOSURES REGARDING ENERGY CONSUMPTION AND WATER USE OF CERTAIN HOME APPLIANCE AND OTHER PRODUCTS REQUIRED UNDER THE ENERGY POLICY AND CONSERVATION ACT (''APPLIANCE LABELING RULE'')

1. The authority for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. In § 305.11, paragraphs (a)(5)(i)(I), (a)(5)(ii)(H), and (a)(5)(iii)(H) are revised to read as follows:

§ 305.11 Labeling for covered products.

(a) * * *

(5) * * *

(i) * * *

(I) The following statement shall appear at the bottom of the label:

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR Part 305).

* * * * *

(ii) * * *

(H) The following statement shall appear at the bottom of the label:

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR Part 305).

* * * * *

(iii) * * *

(H) The following statement shall appear at the bottom of the label:

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 CFR Part 305).

* * * * *

3. Part 305 is amended by adding a new § 305.19 to read as follows:

§ 305.19 Exemptions.

The Commission has exempted manufacturers, private labelers, distributors, and/or retailers in some instances from specific requirements of this part. These exemptions are listed in this section. In some circumstances, use of the exemptions is conditioned on alternative performance by manufacturers, private labelers, distributors, and/or retailers.

(a) Limited conditional exemption for manufacturers from the prohibition against the inclusion of non-required information on the label of covered products that qualify for inclusion in the ENERGY STAR Program maintained by the Department of Energy (''DOE'') and the Environmental Protection Agency (''EPA''). Those manufacturers participating in the DOE/EPA ENERGY STAR Program who wish to place the ENERGY STAR logo on EnergyGuides affixed to covered products they manufacture that qualify for inclusion in the ENERGY STAR Program are granted a conditional exemption from the prohibition against placing ''information other than that specified'' by the Rule on the EnergyGuides they attach to their qualifying products. This exemption is based on several conditions:

(1) The ENERGY STAR logo is permitted on the EnergyGuides of only those covered products that meet the ENERGY STAR Program qualification criteria that are current at the time the products are labeled.

(2) Only manufacturers that have signed a Memorandum of Understanding with DOE or EPA may add the ENERGY STAR logo to labels on qualifying covered products; such manufacturers may add the ENERGY STAR logo to labels only on those covered products that are contemplated by the Memorandum of Understanding.

(3) Manufacturers that choose to avail themselves of the conditional exemption may print the ENERGY STAR logo on EnergyGuides for qualified products as part of the usual label printing process or may place the logo on EnergyGuides for qualified products by whatever means is most efficient for them, provided such placement complies with the requirements of paragraph (a)(4), of this section.

(4) Manufacturers must place the logo on the EnergyGuide above the comparability bar in the box that contains the applicable range of comparability. The precise location of the logo will vary depending on where the caret indicating the position of the labeled model on the scale appears (see the sample label). The required dimensions of the logo must be one and one-eighth inches (3 cm.) in width and three-quarters of an inch (2 cm.) in height. Manufacturers are prohibited

[97] Alliance (13) p.2.

[98] NRDC (7) p.5; OOE (11) p.4; CEC (14) p.4; DOE (15) p.4.

[99] DOE (15) p.4.

from placing the logo in a way that would obscure, detract from, alter the dimensions of, or touch any element of the EnergyGuide, which in all other respects must conform to the requirements of this part. The ENERGY STAR logo must be in process black ink to match the print specifications for the EnergyGuide. The background must remain in process yellow to match the rest of the label.

(5) Manufacturers must add a sentence in process black ink that explains the significance of the ENERGY STAR logo in ten-point Helvetica Condensed Black typeface. The sentence must be next to the logo, above the comparability bar that shows the ''least'' and ''most'' numbers. The sentence must read:

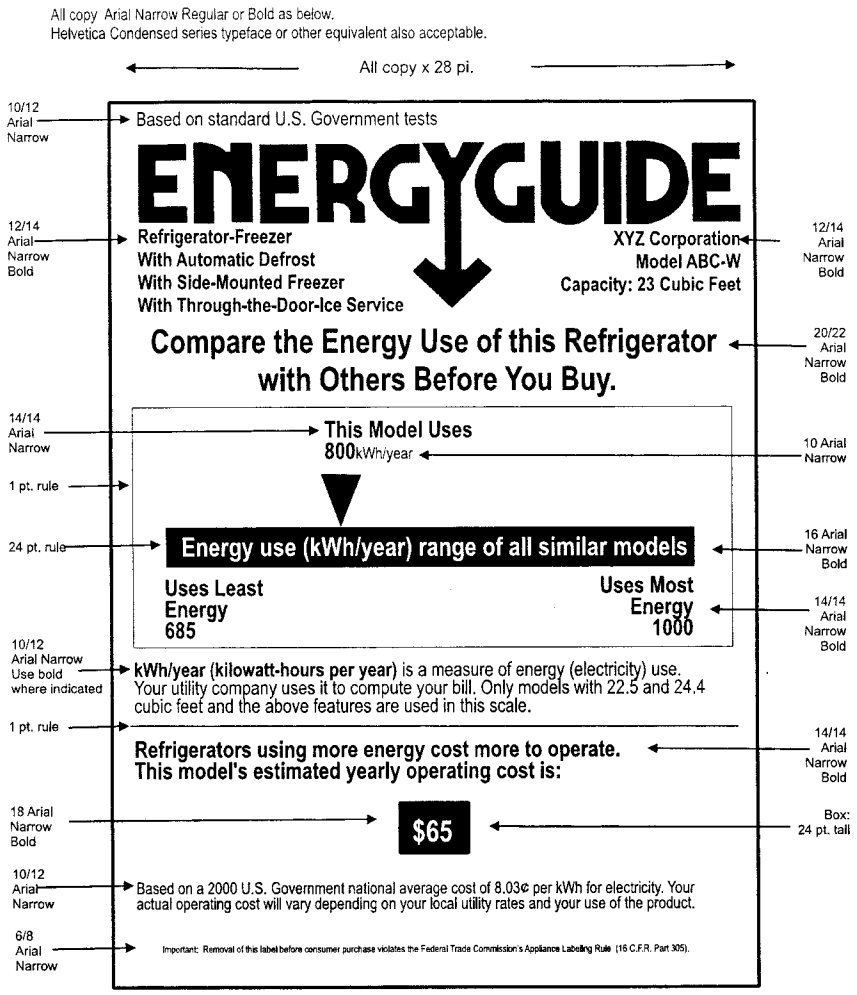
ENERGY STAR A symbol of energy efficiency.

(b) [Reserved]

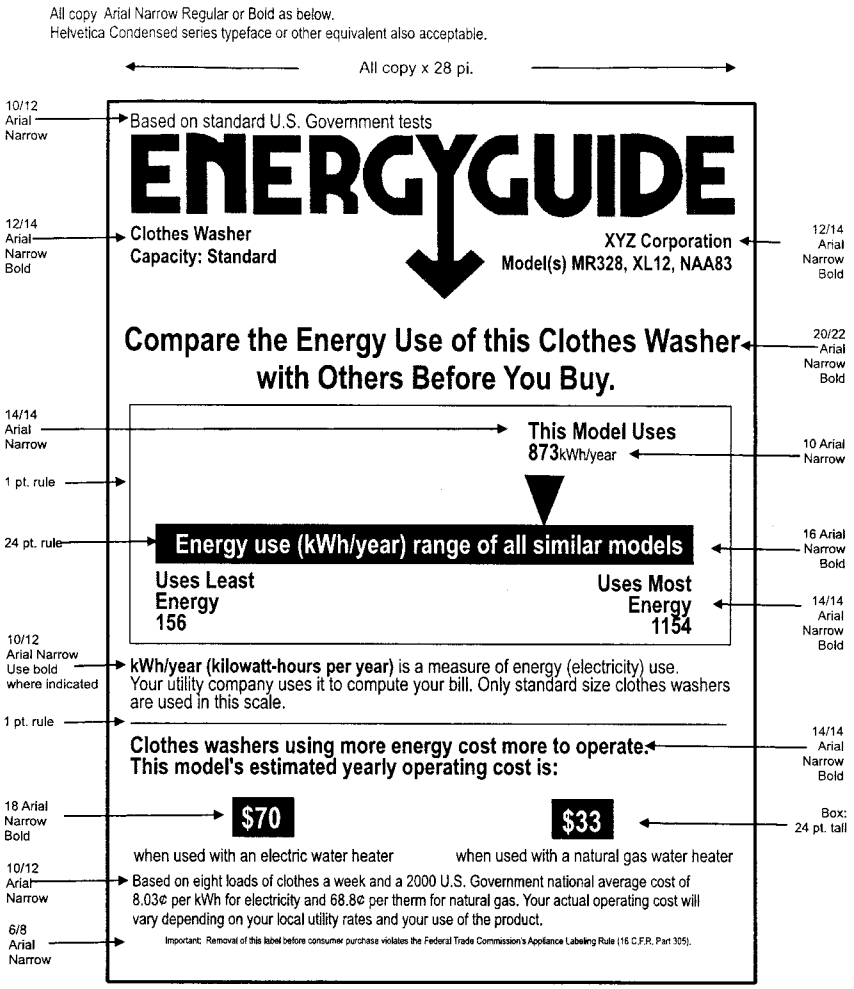
4. Appendix L is amended by revising Prototype Labels 1–5 and Sample Labels 1–10 and by adding Sample Label 11 to read as follows:

BILLING CODE 6750–01–P

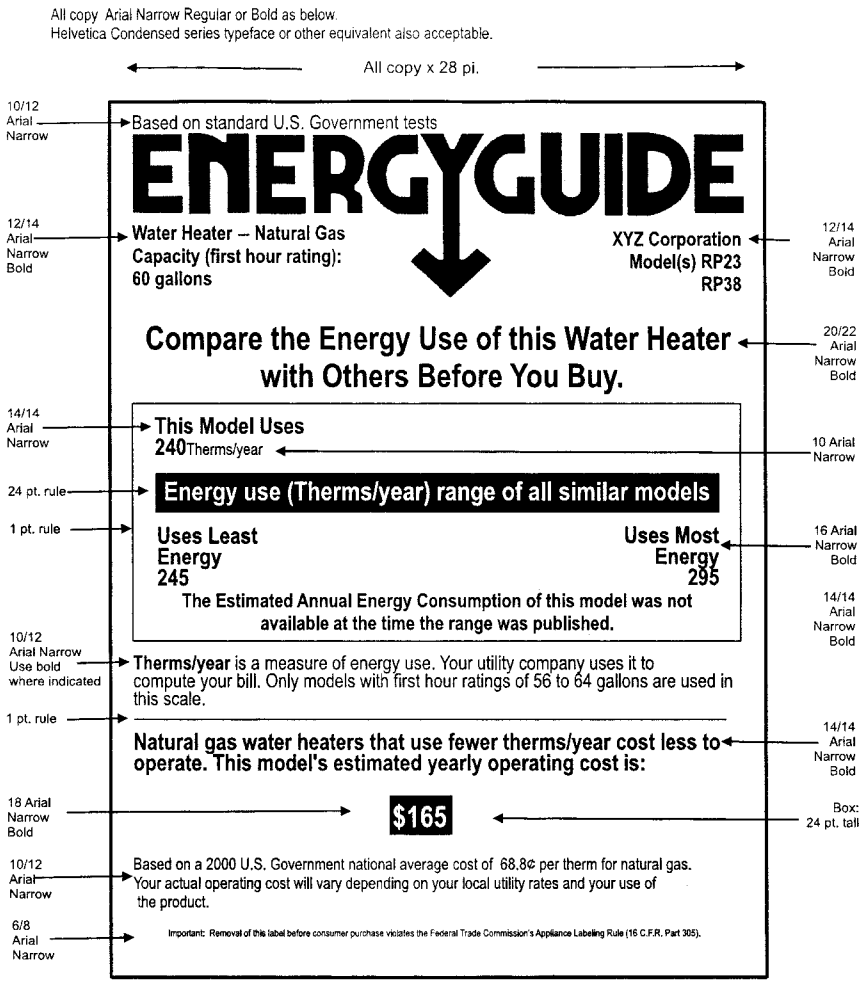
Appendix L to Part 305—Sample Labels



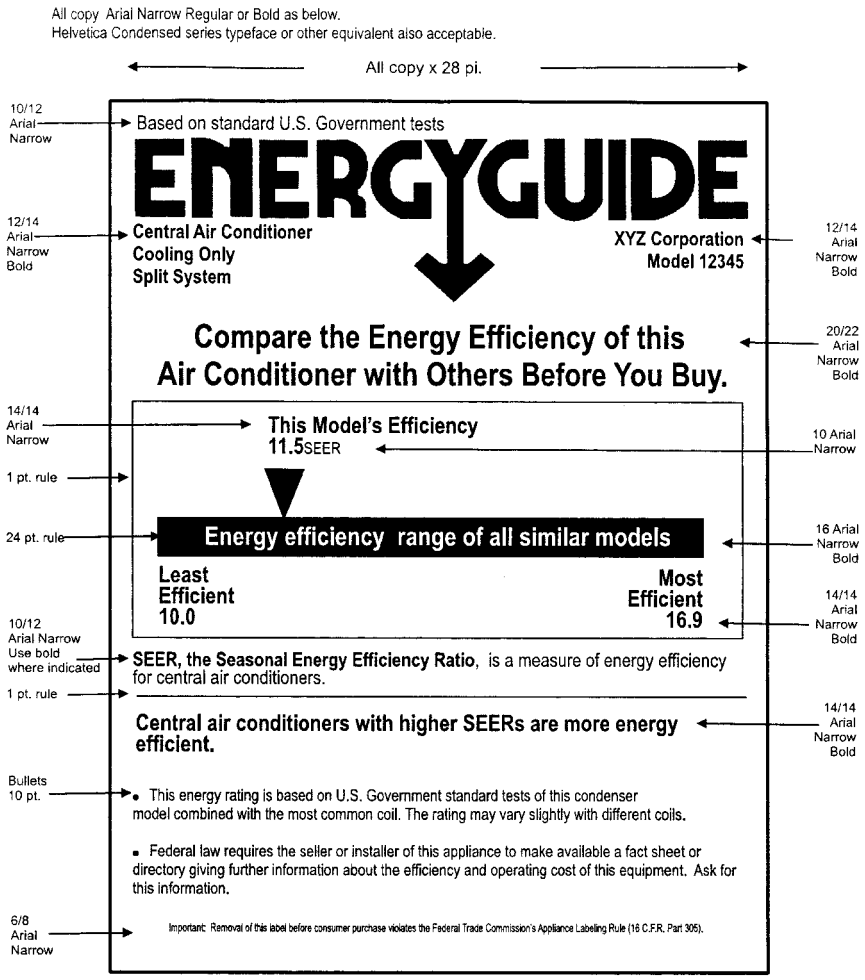
Prototype Label 1



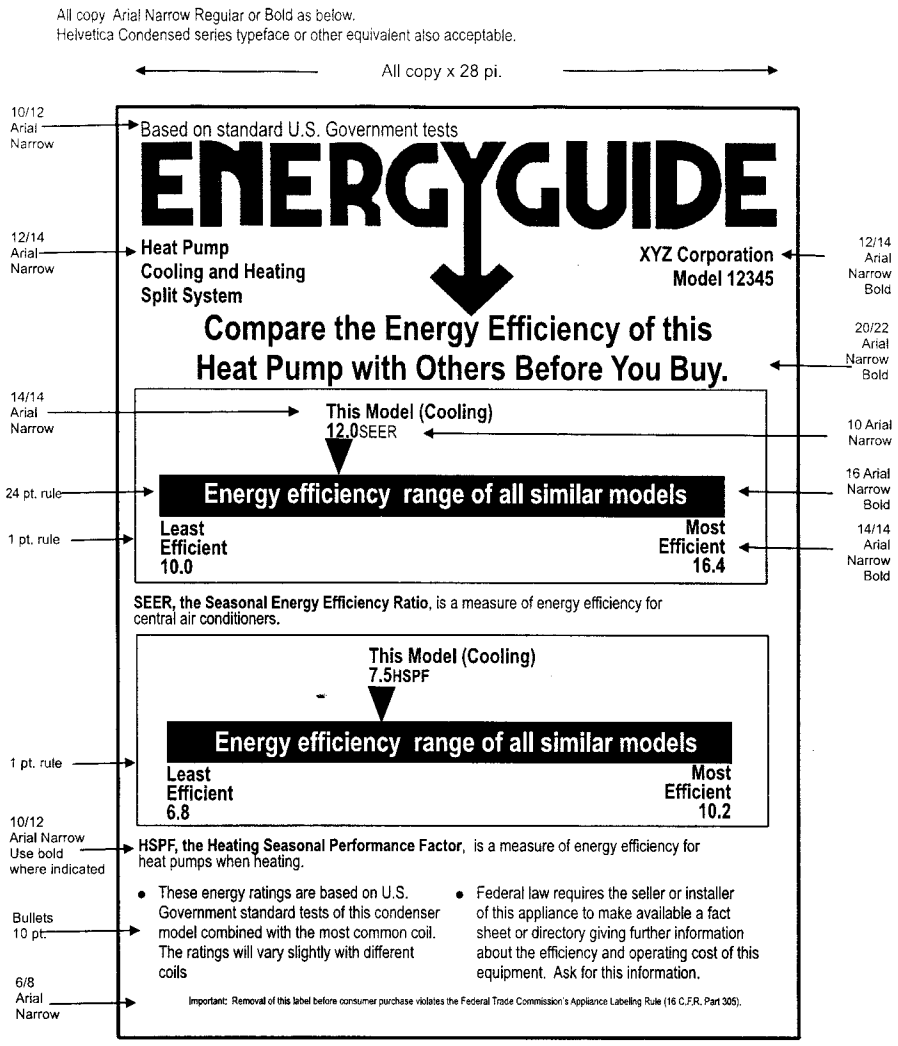
Prototype Label 2



Prototype Label 3



Prototype Label 4



Prototype Label 5

Based on standard U.S. Government tests

ENERGYGUIDE

Refrigerator-Freezer
With Automatic Defrost
With Side-Mounted Freezer
With Through-the-Door-Ice Service

XYZ Corporation
Model ABC-W
Capacity: 23 Cubic Feet

Compare the Energy Use of this Refrigerator with Others Before You Buy.

This Model Uses
800kWh/year

Energy use (kWh/year) range of all similar models

Uses Least Energy
685

Uses Most Energy
1000

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only models with 22.5 and 24.4 cubic feet and the above features are used in this scale.

Refrigerators using more energy cost more to operate.
This model's estimated yearly operating cost is:

$65

Based on a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 1

Based on standard U.S. Government tests

ENERGYGUIDE

Freezer
Upright Type
With Manual Defrost

XYZ Corporation
Model(s) MR328, XL12, NA83
Capacity: 21.2 Cubic Feed

Compare the Energy Use of this Freezer with Others Before You Buy.

This Model Uses
764kWh/year

Energy use (kWh/year) range of all similar models

Uses Least Energy
630

Uses Most Energy
1079

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only models with 19.5 to 21.4 cubic feet with the above features are used in this scale.

Freezers using more energy cost more to operate. This model's estimated yearly operating cost is:

$61

Based on a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 2

Based on standard U.S. Government tests

ENERGYGUIDE

Clothes Washer
Capacity: Standard

XYZ Corporation
Model(s) MR328, XL12, NAA83

Compare the Energy Use of this Clothes Washer with Others Before You Buy.

This Model Uses
873kWh/year

Energy use (kWh/year) range of all similar models

Uses Least Energy
156

Uses Most Energy
1154

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only standard size clothes washers are used in this scale.

Clothes washers using more energy cost more to operate. This model's estimated yearly operating cost is:

$70
when used with an electric water heater

$33
when used with a natural gas water heater

Based on eight loads of clothes a week and a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity and 68.8¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 3

Based on standard U.S. Government tests

ENERGYGUIDE

Dishwasher
Capacity: Standard

XYZ Corporation
Model(s) MR328, XL12, NAA83

Compare the Energy Use of this Dishwasher with Others Before You Buy.

This Model Uses
860kWh/year

Energy use (kWh/year) range of all similar models

Uses Least Energy
558

Uses Most Energy
994

kWh/year (kilowatt-hours per year) is a measure of energy (electricity) use. Your utility company uses it to compute your bill. Only standard size dishwashers are used in this scale.

Dishwashers using more energy cost more to operate.
This model's estimated yearly operating cost is:

$69 when used with an electric water heater

$46 when used with a natural gas water heater

Based on six wash loads a week and a 20009 U.S. Government national average cost of 8.03¢ per kWh for electricity and 68.8¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 4

Based on standard U.S. Government tests

ENERGYGUIDE

Water Heater – Natural Gas
Capacity (first hour rating):
60 gallons

XYZ Corporation
Model(s) RP23
RP38

Compare the Energy Use of this Water Heater with Others Before You Buy.

This Model Uses
240 Therms/year

Energy use (Therms/year) range of all similar models

Uses Least Energy	Uses Most Energy
245	295

The Estimated Annual Energy Consumption of this model was not available at the time the range was published.

Therms/year is a measure of energy use. Your utility company uses it to compute your bill. Only models with first hour ratings of 56 to 64 gallons are used in this scale.

Natural gas water heaters that use fewer therms/year cost less to operate. This model's estimated yearly operating cost is:

$165

Based on a 2000 U.S. Government national average cost of 68.8¢ per therm for natural gas. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 5

Based on standard U.S. Government tests

ENERGYGUIDE

Room Air Conditioner
Without Reverse Cycle
With Louvered Sides

XYZ Corporation
Model 122345
Capacity: 13,000 BTUs

Compare the Energy Use of this Air Conditioner with Others Before You Buy.

This Model Efficiency
10.0 EER

Energy efficiency range of all similar models

Least Efficient 9.0	Most Efficient 11.0

EER, the Energy Efficiency Ratio, is a measure of energy efficiency for room air conditioners. Only models between 8,000 and 13,000 BTUs with the above features are used in this scale.

More efficient air conditioners cost less to operate. This model's estimated yearly operating cost is:

$78

Based on a 2000 U.S. Government national average cost of 8.03¢ per kWh for electricity. Your actual operating cost will vary depending on your local utility rates and your use of the product.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 6

Based on standard U.S. Government tests

ENERGYGUIDE

Furnace – Natural Gas

XYZ Corporation
Model 2345X

Compare the Energy Efficiency of this Furnace with Others Before You Buy.

This Model's Efficiency
80.7 AFUE

Energy efficiency range of all similar models

Least Efficient	Most Efficient
78.0	97.0

The **AFUE, Annual Fuel Utilization Efficiency,** is a measure of energy efficiency for furnaces and boilers. Only furnaces fueled by natural gas are used in this scale.

Natural gas furnaces that have higher AFUEs are more energy efficient.

Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information about the efficiency and operating cost of this equipment.

Ask for this information.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 7

Based on standard U.S. Government tests

ENERGYGUIDE

Central Air Conditioner
Cooling Only
Split System

XYZ Corporation
Model 12345

Compare the Energy Efficiency of this Air Conditioner with Others Before You Buy.

This Model's Efficiency
11.5SEER

Energy efficiency range of all similar models

Least Efficient	Most Efficient
10.0	16.9

SEER, the Seasonal Energy Efficiency Ratio, is a measure of energy efficiency for central air conditioners.

Central air conditioners with higher SEERs are more energy efficient.

- This energy rating is based on U.S. Government standard tests of this condenser model combined with the most common coil. The rating may vary slightly with different coils.
- Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information about the efficiency and operating cost of this equipment. Ask for this information.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 8

Based on standard U.S. Government tests

ENERGYGUIDE

Heat Pump
Cooling and Heating
Split System

XYZ Corporation
Model 12345

Compare the Energy Efficiency of this Heat Pump with Others Before You Buy.

This Model (Cooling)
12.0SEER

Energy efficiency range of all similar models

Least Efficient	Most Efficient
10.0	16.4

SEER, the Seasonal Energy Efficiency Ratio, is a measure of energy efficiency for central air conditioners.

This Model (Cooling)
7.5HSPF

Energy efficiency range of all similar models

Least Efficient	Most Efficient
6.8	10.2

HSPF, the Heating Seasonal Performance Factor, is a measure of energy efficiency for heat pumps when heating.

- These energy ratings are based on U.S. Government standard tests of this condenser model combined with the most common coil. The ratings will vary slightly with different coils
- Federal law requires the seller or installer of this appliance to make available a fact sheet or directory giving further information about the efficiency and operating cost of this equipment. Ask for this information.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 9

Based on standard U.S. Government tests

ENERGYGUIDE

Pool Heater
Natural Gas

ABC Corporation
Model 1428

Compare the Energy Efficiency of this Pool Heater with Others Before You Buy.

This Model's Efficiency
80 Thermal Efficiency

Energy efficiency range of all similar models

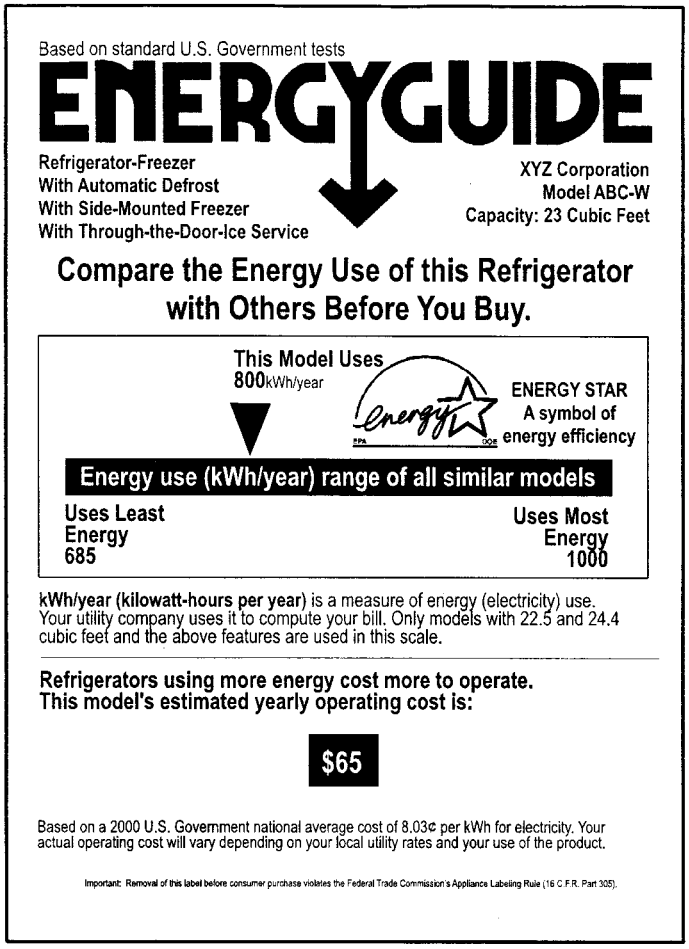
Least Efficient	Most Efficient
78	97

The **Thermal Efficiency** (expressed as a percent) is the measure of energy efficiency for pool heaters. Only pool heaters fueled by natural gas are used in this scale.

Natural gas pool heaters that have higher Thermal Efficiencies are more energy efficient.

Important: Removal of this label before consumer purchase violates the Federal Trade Commission's Appliance Labeling Rule (16 C.F.R. Part 305).

Sample Label 10



Sample Label 11

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–7970 Filed 3–31–00; 8:45 am]

BILLING CODE 6750–01–C

Federal Register

Monday,
April 3, 2000

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 15

Federal Acquisition Regulation; Discussion Requirements; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[FAR Case 1999–022]

RIN 9000–AI68

Federal Acquisition Regulation; Discussion Requirements

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to clarify the scope of discussions in competitive negotiated acquisitions.

DATES: Interested parties should submit comments in writing on or before June 2, 2000, to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.1999–022@gsa.gov

Please submit comments only and cite FAR case 1999–022 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAR case 1999–022.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule amends FAR 15.306(d) to clarify the Councils' view that the contracting officer is not required to discuss every area where the proposal could be improved.

The rule explains that discussions of offerors' proposals beyond deficiencies and significant weaknesses are a matter of contracting officer judgment. GAO has already interpreted the previous FAR language consistently with this clarification in *MRC Federal, Inc.* (B–280969, December 14, 1998) and *Du & Associates* (B–280283.3, December 22, 1998). The rule encourages the contracting officer to discuss other aspects of an offerors' proposal that have the potential, if changed, to materially increase the value of the proposal to the Government (B–280283.3). However, the rule makes clear that whether these discussions would be worthwhile is within the contracting officer's discretion.

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only clarifies existing policy that the scope and extent of discussions are a matter of contracting officer judgment. Therefore, we have not prepared an Initial Regulatory Flexibility Analysis. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR subpart in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1999–022), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: March 29, 2000.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR part 15 be amended as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR part 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 15.306 by revising paragraph (d)(3); by redesignating paragraph (d)(4) as (d)(5); and by adding a new paragraph (d)(4) to read as follows:

15.306 Exchanges with offerors after receipt of proposals.

* * * * *

(d) * * *

(3) At a minimum, the contracting officer must, subject to paragraphs (d)(5) and (e) of this section and 15.307(a), indicate to or discuss with each offeror still being considered for award significant weaknesses, deficiencies, and adverse past performance information to which the offeror has not yet had an opportunity to respond. The contracting officer also is encouraged to discuss other aspects of the offeror's proposal (such as cost, price, technical approach, past performance, and terms and conditions) that could, in the opinion of the contracting officer, be altered or explained to enhance materially the proposal's potential for award. However, the contracting officer is not required to discuss every area where the proposal could be improved. The scope and extent of discussions are a matter of contracting officer judgment.

(4) In discussing other aspects of the proposal, the Government may, in situations where the solicitation stated that evaluation credit would be given for technical solutions exceeding any mandatory minimums, negotiate with offerors for increased performance beyond any mandatory minimums, and the Government may suggest to offerors that have exceeded any mandatory minimums (in ways that are not integral to the design) that their proposals would be more competitive if the excesses were removed and the offered price decreased.

* * * * *

[FR Doc. 00–8135 Filed 3–31–00; 8:45 am]

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Vol. 65, No. 64

Monday, April 3, 2000

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FEDERAL REGISTER PAGES AND DATE, APRIL

17435–17582 3

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT APRIL 3, 2000

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Natural gas companies (Natural Gas Act):

Facilities construction and operation, etc.; filing of applications; rehearing order; published 3-3-00

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans:

Ozone transport reduction—

Nitrogen oxides emissions; State budgets; findings of significant contribution and rulemaking; technical amendment; published 3-2-00

Air quality implementation plans; approval and promulgation; various States:

Alaska; published 4-3-00

California; published 2-3-00

Maryland; published 2-3-00

South Dakota; published 2-3-00

Texas; published 3-3-00

Virginia; published 2-17-00

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Nebraska; published 3-3-00

Oklahoma; published 3-3-00

Texas; published 3-28-00

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:

Appropriate present-value factors associated with payments made to Resolution Funding Corporation; published 4-3-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Anesthesiology devices—

Nitric oxide administration apparatus, nitric oxide analyzer, and nitrogen dioxide analyzer; classification into class II; published 3-3-00

SMALL BUSINESS ADMINISTRATION

Business loans:

Loan loss reserve fund; published 4-3-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerospatiale; published 2-28-00

Cessna; published 2-28-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Plant variety protection office:

Fees revision; comments due by 4-14-00; published 3-15-00

Raisins produced from grapes grown in—

California; comments due by 4-10-00; published 2-9-00

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Poultry products from Mexico transiting U.S.; comments due by 4-10-00; published 2-8-00

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meetings:

E. coli in beef products; risk assessment; policy and regulatory changes; comments due by 4-11-00; published 2-11-00

AGRICULTURE DEPARTMENT

Rural Utilities Service

Electric loans:

Minimum Times Interest Earned Ratio (TIER) requirements; reduction; comments due by 4-10-00; published 3-10-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Gulf of Maine; Atlantic salmon; comments due by 4-14-00; published 3-15-00

Marine and anadromous species—

West coast steelhead in California et al.; comments due by 4-11-00; published 2-11-00

DEFENSE DEPARTMENT

Acquisition regulations:

Contract drawings, maps, and specifications; comments due by 4-10-00; published 2-10-00

Mentor-protege program improvements; comments due by 4-10-00; published 2-10-00

ENERGY DEPARTMENT

Defense nuclear facilities; disposal of real property for economic development; comments due by 4-14-00; published 2-29-00

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Practice and procedure:

Well category determinations; comments due by 4-10-00; published 2-8-00

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

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Connecticut and Rhode Island; comments due by 4-10-00; published 3-9-00

Delaware; comments due by 4-10-00; published 3-9-00

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Hurricane Floyd property acquisition and relocation grants; comments due by 4-11-00; published 2-11-00

Public assistance program administration—

Insurance requirements; comments due by 4-10-00; published 2-23-00

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:

Membership regulations; comments due by 4-14-00; published 3-15-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

American Society for Testing and Materials; amendments to reflect current citations; comments due by 4-10-00; published 1-24-00

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Enterprise Oversight Office

Equal Access to Justice Act; implementation; comments due by 4-14-00; published 2-14-00

Risk-based capital:

Stress test; House Price Index (HPI) use and benchmark credit loss experience determination; comments due by 4-14-00; published 3-13-00

INTERIOR DEPARTMENT

Land Management Bureau

Land resource management:

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Alaska occupany and use; Alaska Native veterans allotments; comments due by 4-10-00; published 2-8-00

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

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Showy stickseed; comments due by 4-14-00; published 2-14-00

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land

reclamation plan submissions:
Indiana; comments due by 4-10-00; published 3-9-00

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Copyright Office, Library of Congress

Cable compulsory licese:
Network station definition; comments due by 4-11-00; published 2-11-00

NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMMISSION

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POSTAL SERVICE

Domestic Mail Manual:
Commercial mail receiving agency; mail delivery; comments due by 4-12-00; published 3-13-00
Sacking and palletizing periodicals nonletters and standard mail (A) flats, traying first-class flats, and labeling pallets; comments due by 4-14-00; published 2-29-00

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False representation and lottery orders; proceedings; subpoenas and civil penalties; comments due by 4-13-00; published 3-14-00

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Small business size standards:
8(a) business development/ small disadvantaged business status determinations; comments due by 4-10-00; published 3-10-00

SOCIAL SECURITY ADMINISTRATION

Social security benefits:
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Medical criteria for disability determinations; comments due by 4-11-00; published 2-11-00

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Consular services; fee schedule; comments due by 4-12-00; published 3-13-00

TRANSPORTATION DEPARTMENT

Coast Guard

Regattas and marine parades, anchorage regulations, and ports and waterways safety:
OPSAIL 2000, Hampton Roads, VA; regulated areas; comments due by 4-14-00; published 2-29-00

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Federal Aviation Administration

Airworthiness directives:
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Eurocopter Deutschland GmbH; comments due by 4-11-00; published 2-11-00
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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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S. 376/P.L. 106–180

Open-market Reorganization for the Betterment of International Telecommunications Act (Mar. 17, 2000; 114 Stat. 48)

Last List March 16, 2000

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1, 2 (2 Reserved)	(869–038–00001–6)	5.00	[5] Jan. 1, 1999
3 (1997 Compilation and Parts 100 and 101)	(869–038–00002–4)	20.00	[1] Jan. 1, 1999
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18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–038–00158–6)	14.00	July 1, 1999
101	(869–038–00159–4)	39.00	July 1, 1999
102–200	(869–038–00160–8)	16.00	July 1, 1999
201–End	(869–038–00161–6)	15.00	July 1, 1999
42 Parts:			
1–399	(869–038–00162–4)	36.00	Oct. 1, 1999
400–429	(869–038–00163–2)	44.00	Oct. 1, 1999
430–End	(869–038–00164–1)	54.00	Oct. 1, 1999
43 Parts:			
1–999	(869–038–00165–9)	32.00	Oct. 1, 1999
1000–end	(869–038–00166–7)	47.00	Oct. 1, 1999
44	(869–038–00167–5)	28.00	Oct. 1, 1999
45 Parts:			
1–199	(869–038–00168–3)	33.00	Oct. 1, 1999
200–499	(869–038–00169–1)	16.00	Oct. 1, 1999
500–1199	(869–038–00170–5)	30.00	Oct. 1, 1999
1200–End	(869–038–00171–3)	40.00	Oct. 1, 1999
46 Parts:			
1–40	(869–038–00172–1)	27.00	Oct. 1, 1999
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70–89	(869–038–00174–8)	8.00	Oct. 1, 1999
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166–199	(869–038–00178–1)	27.00	Oct. 1, 1999
200–499	(869–038–00179–9)	23.00	Oct. 1, 1999
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47 Parts:			
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Subscription (mailed as issued)		247.00	1998
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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.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—APRIL 2000

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
April 3	April 18	May 3	May 18	June 2	July 3
April 4	April 19	May 4	May 19	June 5	July 3
April 5	April 20	May 5	May 22	June 5	July 5
April 6	April 21	May 8	May 22	June 5	July 5
April 7	April 24	May 8	May 22	June 6	July 6
April 10	April 25	May 10	May 25	June 9	July 10
April 11	April 26	May 11	May 26	June 12	July 10
April 12	April 27	May 12	May 30	June 12	July 11
April 13	April 28	May 15	May 30	June 12	July 12
April 14	May 1	May 15	May 30	June 13	July 13
April 17	May 2	May 17	June 1	June 16	July 17
April 18	May 3	May 18	June 2	June 19	July 17
April 19	May 4	May 19	June 5	June 19	July 18
April 20	May 5	May 22	June 5	June 19	July 19
April 21	May 8	May 22	June 5	June 20	July 20
April 24	May 9	May 24	June 8	June 23	July 24
April 25	May 10	May 25	June 9	June 26	July 24
April 26	May 11	May 26	June 12	June 26	July 25
April 27	May 12	May 30	June 12	June 26	July 26
April 28	May 15	May 30	June 12	June 27	July 27